

# Montgomery County's Fiscal Year 2008 Case Processing Time Report

## Executive Summary

- Montgomery County Circuit Court had 19,337 original case terminations during Fiscal Year 2008 (FY08), which is over 2,000 more terminations than in FY07 (17,306). Unlike previous fiscal years, this report is based on a random sample of up to 510 cases per case type rather than the entire population of cases terminated in FY08. As such, while performance outcomes based on a random sample should closely reflect those achieved from the full caseload, "accuracy" depends on how well the sample was drawn and the sample size. The Circuit Court is confident that the performance results displayed in Table 1 closely represent what would have been obtained if the full caseload was analyzed<sup>1</sup>.
- Table 1 presents the Montgomery County Circuit Court's case processing performance measured in terms of the percent of cases closed within the state-defined time standards along with the statewide goals and the consolidated statewide within-standard percentages ("statewide averages," preliminary). Montgomery County's performance is above or equal to the statewide percentage for all case types except for criminal, where the Court closed 86% of the cases within the state 180-day standard, slightly lower than the statewide percentage (91%). The Circuit Court's case processing performance of TPR (61%) and CINA Shelter (80%) cases are substantially above the statewide percentages (41% and 74%, respectively). The Court's domestic relations case processing performance for FY08 again met the state performance goals. The Court will continue to aggressively manage the caseload and implement improvement initiatives as necessary, realizing that there is always room for improvement.

**Table 1. Maryland Case Processing Standards and Montgomery County's FY07 and FY08 Performance**

Case Type	Caseflow Time Standard (in days)	FY08 Montgomery County Terminations		Percent Within-Standard			Statewide Average, FY08 <sup>a</sup>
		Total Terminations	Sample Size	State Mandated	Montgomery County		
					FY07	FY08	
Civil	548	7,243	509	98%	94%	95%	93%
Criminal	180	2,613	505	98%	89%	86%	91%
Domestic, standard 1	365	7,673	510	90%	90%	90%	90%
Domestic, standard 2	730			98%	99%	>99%	98%
Juvenile Delinquency	90	1,492	510	98%	98%	95%	94%
CINA Shelter	30	173	173	100%	60%	80%	74%
CINA Non-Shelter	60	73	73	100%	88%	90%	86%
TPR	180	70	70	100%	42%	61%	41%
Total		19,337	2,350				

<sup>a</sup> \* As of November 14, 2008, the Statewide Caseflow Assessment has not been completed. Accordingly, the Statewide within-standard percentage represented is preliminary. In addition, to compare the County's performance conservatively, the unweighted statewide within-standard percentages, which do not take into account the total number of terminations reported to the State by each participating Jurisdiction, were used. The unweighted percentage, which tends to overestimate the performance of smaller jurisdictions that in general perform better than larger jurisdictions, generally yields a more optimistic figure than its weighted counterpart.

- The County's case processing performance remained relatively consistent from FY07 to FY08 for civil and domestic relations cases. Criminal and juvenile cases decreased slightly between FY07 and FY08 (89% versus 87%, and 98% versus 95%, respectively) whereas CINA Non-Shelter cases increased

<sup>1</sup> Margin of error varies from one case type to another due to the size of the total terminations and the sample size. For civil, criminal and domestic relations cases, margin of error is +/- 4.2 percentage points (with 95% confidence level) and that for juvenile cases is +/- 3.5 percentage points. For CINA and TPR cases, there is no margin of error for the entire cases were used for the analysis.

slightly from 88% in FY07 to 90% in FY08. There were marked improvements in CINA Shelter and TPR cases between FY07 and FY08. In particular, CINA Shelter improved from 60% in FY07 to 80% in FY08. TPR cases improved from 42% in FY07 to 61% in FY08.

- In FY08, the average case processing time (ACT) for civil, domestic relations, CINA Shelter and Non-Shelter, and TPR cases decreased by between 1 and 21 days (See Table 2). In particular, the average case time for TPR cases experienced a 21 day decrease from 208 days in FY07 187 days in FY08. For criminal and juvenile cases, there was an increase of 3 and 5 days, respectively in the ACT.

**Table 2. Average Case Processing Time by Case Type, FY07 and FY08**

Case Type	Caseflow Time Standard (in days)	FY07 Overall, Average Case Processing Time (in days)	FY08 Average Case Processing Time (in days)		
			Overall	Within-Standard	Over-Standard
Civil	548	222	213	176	952
Criminal	180	92	95	69	254
Domestic, standard 1	365	157	155	117	505
Domestic, standard 2	730	157	155	152	946
Juvenile Delinquency	90	41	46	42	127
CINA Shelter	30	35	27	21	52
CINA Non-Shelter	60	44	43	37	105
TPR	180	208	187	128	282

- The percentage of trial postponements was greater among criminal cases (49%, FY07: 51%) as compared to civil (3%, FY07: 3%), domestic relations (2%, FY07: 3%), juvenile delinquency (26%, FY07: 28%), CINA Shelter (26%, FY07: 44%), CINA Non-Shelter (37%, FY07: 35%), and TPR (41%, FY07: 26%) cases. When a system-generated trial schedule change was removed as a postponement, there was an obvious increase in the number of cases without trial postponements, but the within-standard percentage among cases without postponements declined to 90%, compared to 97% when rescheduling of system-generated trial dates were treated as postponements, indicating that these system-generated calendar conflicts do negatively affect the case processing time. We speculate that if the Court is able to re-confirm system-generated trial dates with parties and change the dates (if necessary) early in advance, the number of trial postponements might be reduced and performance improved. It may behoove the Circuit Court to consider a system to confirm trial dates with counsel and/or parties in criminal cases, as well as to locate parents for CINA cases (as established in other jurisdictions).
- A more thorough analysis of postponements to include pre-trial postponements may be important in order to obtain an accurate and complete picture of the impact of postponements on the Court's case management process. More specifically, it is important to understand the number, type (trial vs. pre-trial), postponement reason, and length of postponements present in each case and the impact that has on case processing time.
- The Montgomery County Circuit Court plans to conduct a more in-depth analysis of its case processing performance by examining how well cases perform against its DCM time standards, and determining at which stage of the case process performance begins to falter. Any early indication of performance slippage will serve as a preemptive warning for Court personnel that efforts need to be undertaken to reserve further performance decline.
- It may be of interest to have a full accounting of the reasons for inactivity in cases. Once all of the reasons for inactivity are identified, the Court can better identify which inactive periods should be excluded from the calculation of case processing time. As an example, cases are often placed on the Court's "general stay docket" for a specified period of time. The reasons why a case may be stayed include but are not limited to: pending the outcome of another Circuit Court case, pending Alternative Dispute Resolution or Mediation, pending settlement negotiations, etc. Such periods of inactivity

where the Court is not involved in the processing of the case are not excluded from the total processing time. It is recommended that the Circuit Court Time Standards Sub-Committee review the reasons why cases are placed on the “general stay docket” to determine if certain periods of inactivity should be deemed suspension events by the time standards.

- Ensuring that data quality controls are consistently implemented across case type is critical to the integrity of the analysis and ultimately the conclusions drawn from the report. Identifying cases that have an incorrectly calculated clock time could impact whether a case type is viewed as performing better or worse than in the past. Caution should also be exercised when comparing figures across fiscal years because various factors, such as data quality improvements over time, the shift in composition of cases by sub-type, and changes in the state case time standard, may explain variation in the identified improvements or declines in case processing performance.

# Montgomery County's Fiscal Year 2008 Case Processing Time Report

## Abstract

In an effort to assess Montgomery County's case processing performance for Fiscal Year 2008 (FY08), a random sample of up to 510 original case terminations in FY08 were included for analysis.<sup>2</sup> Using a random sample of originally terminated cases is a slightly different approach than has been used in the past wherein *all* originally terminated cases were analyzed for a particular fiscal year. It is important to note that while a random sample should closely reflect the performance achieved from the full caseload, "accuracy" depends on how well the sample was drawn and the number of observations in the sample. The Circuit Court is confident that the performance results displayed throughout this report closely represent what would have been achieved if the full caseload was analyzed<sup>3</sup>.

In FY08 there were a total of 19,337 (FY07: 17,306) original closures by the Circuit Court across civil (N = 7,243; FY07: 6,320), criminal (N = 2,613; FY07: 2,485), domestic relations (N = 7,673; FY07: 6,722), juvenile delinquency (N = 1,492; FY07: 1,485), Child In Need of Assistance (CINA: N = 246; FY07: 263), and Termination of Parental Rights (TPR: N = 70; FY07: 31) cases. Of the 246 CINA cases, 173 were shelter cases and 73 were non-shelter cases. Montgomery County's case processing performance remained largely consistent between FY07 and FY08 for civil and domestic relations cases, declined slightly for criminal and juvenile delinquency cases, and improved for CINA (both Shelter and Non-Shelter) and TPR cases. Specifically, civil cases were within-standard 95% of the time in FY08 as compared to 96% in FY07, and domestic relations cases remained at 90% within-standard when measured against the 12-month standard and 99% within-standard when measured against the 24-month standard. Criminal cases declined from 89% in FY07 to 87% in FY08, and juvenile delinquency cases declined in performance from 98% in FY07 to 95% in FY08. CINA Non-Shelter cases slightly improved from 88% in FY07 to 90% in FY08 whereas CINA Shelter and TPR cases dramatically improved during the same time period. CINA Shelter cases improved in performance by 28 percentage points from 60% in FY07 to 88% in FY08. The within-standard percentage for TPR cases also improved from 42% in FY07 to 61% in FY08.

For the past two fiscal years, the Circuit Court met the statewide standard for both domestic relations and juvenile delinquency cases. In FY08, the Court fell short of meeting the juvenile delinquency time standard by three percentage points. While the Court also declined in performance in processing criminal cases, marked improvements were made in CINA and TPR cases. In fact, for both CINA Shelter and TPR cases performance in FY08 is the highest it has been since these statistics were first collected in FY05. When compared to other Circuit Courts in Maryland, Montgomery County's performance was above the statewide within-standard average percentage for all case types except criminal.<sup>4</sup> Specifically, the Circuit Court's criminal performance was 87% in FY08 compared to 91% for the unweighted, statewide within-standard percentage.

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<sup>2</sup> The caseloads presented in this report do not match the caseloads reported in the County's Annual Report due to differences in case exclusion rules. The FY08 caseload report does not include adoption, asbestos, consent, domestic violence, federal tax lien, friendly suit, homeowners association, lien, Lis Pendens, recorded judgment, peace order, transfers from other jurisdictions for probation, voluntary placement, reopened, restricted (sealed), and expunged cases.

<sup>3</sup> Margin of error varies from one case type to another due to the size of the total terminations and the sample size. For civil, criminal and domestic relations cases, margin of error is +/- 4.2 percentage points (with 95% confidence level) and that for juvenile cases is +/- 3.5 percentage points. For CINA and TPR cases, there is no margin of error for the entire cases were used for the analysis.

<sup>4</sup> As of November 14, 2008, the Statewide Caseload Assessment has not been completed. Accordingly, the Statewide within-standard percentage represented is preliminary. In addition, to compare the County's performance conservatively, the unweighted statewide within-standard percentages, which do not take into account the total number of terminations reported to the State by each participating Jurisdiction, were used. The unweighted percentage, which tends to overestimate the performance of smaller jurisdictions that in general perform better than larger jurisdictions, generally yields a more optimistic figure than its weighted counterpart.

# Montgomery County's Fiscal Year 2008

## Data Quality Review Procedures

At the FY2008 Caseflow Assessment Training for Circuit Courts, it was requested that courts ensure that their data quality procedures align with those recommended by the Judicial Council. It was also stated that courts should document their data quality review procedures in their jurisdiction-specific report. Since Montgomery County uploads its data to the Caseflow Assessment Application, the Court's data quality review procedures were performed earlier than most courts with the majority of their data quality efforts undertaken prior to the data being uploaded to the Caseflow Assessment Application. Also, Montgomery County Circuit Court's data quality review procedures occur throughout the year and are not solely performed for the purposes of the caseflow assessment. Therefore, a discussion of Montgomery County's data quality review process will not only include information on the procedures undertaken to ensure the quality of the FY2008 caseflow data but also the procedures performed throughout the year that can impact case processing performance in advance of a case closing and eventually becoming part of the caseflow assessment.

The Montgomery County Circuit Court is committed to ensuring the quality of its data for case management purposes as well as implementing its mission of administering justice to County residents "in an honest, fair, and efficient manner." Data Quality Review is a year-round, collaborative effort undertaken by the Court Administration and the Clerk of the Court. Data Processing, Quality Control, Assignment Office, Family Division Services, and departments under the Clerk of the Court play various roles in the data quality review efforts of the court. Provided below is a brief description of these offices and their role in the data quality review process.

Data Processing (DP): Under the Technical Services Department, DP maintains the Court's case management data and generates various case processing-related reports for Quality Control, Administration, case managers, and clerks throughout the year. The reports generated vary in purpose, which include:

- Reports on cases with conflicting data entered by the Assignment Office, Courtroom clerks, and Civil, Criminal, Family, and Juvenile Department clerks,
- Open Case and Case Exceeding DCM Track Specification reports that require the Court's review and possible actions or those that require the Court's close monitoring, and
- Audit sheets for all closed cases for data verification.

During the data preparation period, DP creates case type-specific detailed reports of over-standard cases for review and analysis and extracts random samples of cases to be uploaded to the Assessment Application.

Quality Control: A Division created by the Court Administrator to monitor the quality of case data generated by various offices in the Circuit Court and to analyze quality improvements necessary in the system. This Division monitors Civil, Criminal, Family, and Juvenile cases, and is the primary Division responsible for ensuring the accuracy of the annual caseflow data.

Assignment Office: An office responsible for scheduling hearings and trials and for ensuring that all events are scheduled in compliance with the Court's Differentiated Case Management's Plans. Assignment Office staff work with the courtroom clerks to ensure that the outcomes of posted events are accurately reflected and updated in the Court's case management data system. If a code mismatch occurs between the Assignment Office and the Clerk's Office on posted event outcomes, a report is

generated by Data Processing. Assignment Office staff and clerks work together to reconcile all of the mismatched codes reflected on that report.

Court Administration: The Office of Court Administration, Montgomery County Circuit Court, as a conduit for many judicial and non-judicial operations of the Court, facilitates the administrative responsibilities of the court and develops policies to enhance system performance while maintaining the independence of the judiciary. The caseload assessment and the quality control of the Court's case data were mainly performed by the Quality Control staff under the Court Administrator until the appointment of a new Clerk of the Court. Since then the Court Administrator collaborates with the Clerk of the Court to define and implement routine court data quality procedures. Designated administration personnel perform additional reviews of the data to ensure its accuracy is upheld. The administration staff is also responsible for making sure that the data is correctly uploaded to the Assessment Application.

Clerk of the Court-Civil, Criminal, Family, and Juvenile Departments and Courtroom Clerks: As detailed in Maryland Code 2-201, the Office of the Clerk of the Court was established as an independent keeper of the records to maintain their integrity in a safe and impartial manner. As part of ensuring the fulfillment of its responsibility, under the new leadership, the Civil, Criminal, Family, and Juvenile Departments as well as the Courtroom Clerks, have started working closely with the Quality Control, the Assignment Office, and the Family Division Services Case Managers to improve the data entry and correction procedures, to reconcile discrepancies in case information and to discuss and resolve various issues.

Family Division Services: While its main function is to provide auxiliary services to parties involved in family and juvenile cases, its Family and Juvenile Case Managers are an integral part of the Court's year-round data quality review process by checking the progress of the cases and preparing them in the right posture to be before our judges and masters.

#### *Data Quality Procedures Performed Throughout the Fiscal Year*

The discussion contained in this section focuses on the data quality checks performed throughout the fiscal year on open cases, some of which have subsequently closed and are included in the Court's FY2008 caseload sample. Montgomery County Circuit Court's Quality Control Division performs routine data quality checks on all open criminal, civil, domestic relations, and juvenile delinquency cases throughout the fiscal year. On a weekly basis, the Quality Control Division, Assignment Office, and designated clerks in the Criminal, Civil, Family, and Juvenile Departments monitor cases without future scheduled events, those that need the Court's close attention or immediate action, validate the codes entered by the Clerk's Office, Courtroom Clerks, and the Assignment Office, and ensure that cases are being set in the proper posture. The main objective of these activities is to monitor case processing activities and the progress of open cases and to make certain that cases are disposed according to the Court's *Differentiated Case Management Plans*, which meet and exceed the current State Time Standards.

One of the major undertakings of the Court is performing case auditing. During auditing, personnel from various departments compare key case information extracted from the Court's case management data in **all** closed criminal, civil, and domestic relations cases with the information in actual case files. Specifically, Administrative Aides audit the civil cases, Quality Control audits miscellaneous petitions and criminal cases and assists Administrative Aides with auditing civil cases. Family Division Case Managers audit family cases and the Juvenile Department Manager audits the juvenile delinquency cases. Examples of the key data fields include filing, service, and answer dates, as well as case stop

date, trial settings, disposition code, etc. The audit sheets are tailored to key information (or data fields) for each case type. During the audits for closed FY2008 cases, not all assessment defined suspension events were verified.<sup>5</sup> To address this issue, the designs of the audit sheets were modified to cover the suspensions that were excluded from the FY08 audit. In addition, those suspension events that had not been verified through the audits were later verified during the review of all the over-standard FY2008 cases. As in previous years, all FY2008 criminal, civil, domestic relations, and juvenile cases were audited by the court personnel (either Quality Control staff, case managers, Administrative Aides, Juvenile Department Head). While certain types of cases, such as Montgomery County Office of Child Support and Enforcement (MCOCSE) cases (unless the case has another issue such as custody), Child-In-Need of Assistance (CINA) cases, and Termination of Parental Rights (TPR) cases, are not currently audited, the Court did review these cases to ensure the accuracy of their case information as explained below. Montgomery County Circuit Court believes that its case audits meet, if not exceed, the “10% Review” requirement defined by the FY2008 Caseflow Assessment Training Manual. Since the audit is performed prior to the caseflow data being uploaded to the Caseflow Assessment Application, the “reviewed” box in the Assessment Application will not be checked to indicate that the case was reviewed by the Court.

As part of continuing efforts to improve case processing performance, representatives from the Clerk of the Court, Court Administration, Courtroom Clerks, QC, AO, Family Division Services, Juvenile, and Court Researchers hold monthly meetings for each case type in which they identify and address any case processing issues brought to their attention that require inter-departmental coordination.

#### *Data Quality Procedures Performed Specifically on the FY2008 Caseflow Data*

In addition to conducting audits of closed cases and performing routine checks of the accuracy of the Court’s docket entries, designated court personnel also performed additional data quality reviews specifically during the data preparation period to generate the FY2008 caseflow data. First, Data Processing compiled the cases closed in FY2008 into a case type-specific database (Microsoft (MS) Access tables), which contains the mandatory and optional data fields that align with those in the Caseflow Assessment data. Using the information in the data tables, Data Processing created reports that list all over-standard cases with the key data fields (as defined in the Circuit Courts Case Time Standards) for each case type (civil, criminal, domestic relations, and juvenile delinquency). These reports were then reviewed by Court Administration and Quality Control personnel to ensure that the information contained in the reports matches the information contained in the data system. This review of the over-standard cases serve two functions: 1) provides a double-check of the accuracy of the case data which has already been audited, and 2) explores the reasons why cases are over-standard through reviewing the docket entries contained in the Court’s data management system. As mentioned above, while the CINA and TPR cases were not audited by the Court, these cases, both within- and over-standard cases, were reviewed to ensure that the case information mirrors the case files.

#### *Additional Data Quality Review Procedures Performed on the FY2008 Caseflow Data*

Following the review of all the over-standard cases (for each case type), designated Court personnel also checked the sample data after it was uploaded to the Assessment Application. The purpose of these checks is to ensure that no errors were generated in the data during the upload process. The

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<sup>5</sup> The suspension fields that were not reviewed or verified as part of the FY2008 audits include: Mistrial Date, Petition for Reverse Waiver Date, Military Leave Date, Pre-Trial Treatment Order Date, and Postponement Due to DNA for Criminal cases; Non-Binding Arbitration date, Military Leave Date, and FTA/Body for Civil cases; and Military Leave Date, FTA/Body Attachment Issue Date, No Service in Child Support cases, and Collaborative Law Filing Date in Domestic cases.

checks performed include examining the data fields in a random set of cases, as well as reviewing all competency and bankruptcy cases to ensure that the suspension events were captured in the data.

Finally, the Court Researchers performed additional data quality checks on the sample data that was uploaded to the Caseflow Assessment Application. Instead of verifying the information of each case with actual files, the researchers ran the data with a statistical package and identified errors that had been overlooked during the more intensive and targeted data review. For example, the researchers recalculated the case processing time based on the information available from the data and compared it with the case time originally calculated by the Data Processing staff to ensure that all the valid suspension events were taken into account and that the correct time was reflected. In the past, this analysis revealed the omission of particular types of suspension events or instances where the suspension end dates were not appropriately extracted. The researchers also checked and verified the cases with negative case times, missing start dates, or missing suspension start/stop dates so as to fulfill the requirement to perform an initial review of the caseflow data. Furthermore, the researchers checked the data extracted for the upload with the Court's case management data and actual case files when necessary. In this sense, the checks performed by the Court Researchers closely align with the Caseflow's initial data quality review, and served as the final review before any analyses were performed.

#### *Characteristics of the Errors Uncovered during the Data Quality Reviews*

During this fiscal year's review of the caseflow data, some of the errors uncovered include incorrect docket codes used to inactivate or close a case. For example, family cases often have multiple issues, which can make correct docketing a challenge for clerks, especially new clerks. A few specific issues uncovered during the review of over-standard Family cases include:

- A case being closed on an incorrect docket entry: Prior to revisions made to the Court's Case Status Definitions, the Court was unable to indicate a specific docket entry as a case closure. With the revisions, clerks are more easily able to capture the actual docket entry number that causes the status change (highlighting the correct closure date).
- Incorrect service date: Prior to January 2004, the service date used would be that of the file stamp date of the affidavit of service, or other proof of service. Since then, it has been the Court's practice to use the actual service date that is indicated on the return of service. This change to court procedure led to temporary inaccuracies in the data as personnel became accustomed to the new modifications.

A few specific issues uncovered during the review of over-standard criminal cases and criminal case audits include:

- Incorrect use of codes: The code indicating that the 'Court Postpones [a case] beyond 180 days' was used incorrectly on the entry 'Court advises Defendant of his right for a speedy trial' and then [the code] was used a second time correctly when the court postponed the case beyond the 180 days. In the Court's data management system, 2 180-day waivers were noted in the case rather than one.
- Program errors: The Assignment Office used a code to indicate that the case was postponed, posted in error; however, the Court's data management system incorrectly counts this code as an additional trial set, which would lead to an incorrect number of events in the case.



- Incorrect dates: When a Summons or Bench Warrant return was used to determine the Arrest Date, the date used was often filing date, which is an incorrect date, instead of the date of service.

Some issues identified during weekly reviews of the civil data, as well as uncovered during audits include:

- Incorrect dates: Court events were closed on a Judge's order rather than the courtroom work. Also, cases were closed in error due to the presence of pending issues/charges. The docket entry associated with the service date is used rather than the actual service date.
- Incorrect codes: An incorrect disposition code is also a frequent occurrence in the data.

When issues are identified, court personnel take a multitude of steps to reconcile the inconsistencies such as listening to *CourtSmart*, contacting attorneys about the status of an issue, and meeting with clerks to resolve the issue. Also, the Data Processing Division is involved in helping to reconcile the questionable case information that is uncovered during the data quality review processes.

Montgomery County Circuit Court's FY08 Caseflow report is based on an analysis of random samples of originally terminated cases. Case performance is measured in accordance with the intended approach set forth by the Maryland Judicial Council. Appendix I of this report details how Montgomery County's case processing performance differs when alternate approaches to the implementation of the time standards are used. Montgomery County Circuit Court contends that there are several modifications highlighted herein that should be made to the implementation of the time standards. Such modifications should be reviewed by the Circuit Court Time Standards Sub-Committee for consideration to the FY2009 Caseflow Assessment.

# Civil Case Terminations

## Fiscal Year 2008 Case Terminations

### A. Civil Case Processing Definitions and Summary

	Civil Case Time Definitions	Percent Within 18-month (548 days) Standard	Additional Montgomery County Measurements
<b>Civil Case Standards and Montgomery County Measures</b>	<p><u>Case Time Start:</u> Filing of case.</p> <p><u>Case Time Stop:</u> Disposition, dismissal or judgment.</p>	<p><u>State-Set Goal:</u> 98%</p> <p><u>Montgomery County:</u> CY 2001: 95% CY 2002: 94% CY 2003: 94% FY 2005: 96% FY 2006: 95% FY2007: 94% FY2008: 95%</p>	<p><u>Filing to Service or Answer, whichever comes first:</u> CY 2001: 49 days CY 2002: 44 days CY 2003: 33 days FY 2005: 45 days FY 2006: 42 days FY 2007: 40 days FY2008: 41 days</p> <p><u>Average Case Processing Time:</u> CY 2001: N/A CY 2002: 291 days CY 2003: 285 days FY 2005: 206 days FY 2006: 209 days FY 2007: 222 days FY2008: 213 days</p>
Note: Civil case time is suspended for bankruptcy court stay or non-binding arbitration, interlocutory appeal, body attachment, and military leave.			

#### *Overall Civil Case Terminations*

A random sample of 510 civil cases terminated in Fiscal Year 2008 (FY08) was drawn from the Montgomery County Circuit Court's case management data system for this year's Caseflow Assessment. Of the 510 cases pulled for the Assessment, 509 were used for this analysis<sup>6</sup>. The distribution of case processing time ranged from one (1) day for those cases that were filed and closed on the same day (29 of 509) to 4,158 days (1 of 509). Ninety-five percent of civil cases closed within the 18-month standard (N = 485), with an ACT of 176 days. Of the civil case closed in FY08, 24 (5%) were over-standard and had an ACT of 952 days.

Between FY04 and FY07, the overall case processing performance for civil cases in Montgomery County Circuit Court declined resulting in a 12% increase in the overall Average Case Time (ACT). This

<sup>6</sup> One case was removed from the sample because a binding arbitration occurred in the case in FY05, which according to the FY08 time standards closes the case.

trend reversed between FY07 and FY08 where the overall ACT reduced by 9 days from 222 days to 213 days. There was also a reduction in the over-standard ACT between FY07 and FY08; the over-standard ACT reduced from 978 days in FY07 to 952 days in FY08. Thus, the slight decline in the overall ACT for civil cases in FY08 was the result of the marked decrease in the ACT for over-standard cases from the previous fiscal year, and the slight increase in the ACT for within-standard cases.

Despite reductions in the overall and over-standard ACTs, the within-standard ACT increased slightly. There was also a slight increase in the within-standard percentage between FY07 and FY08; however, it remained essentially constant since FY05 oscillating between 94% and 95% within-standard. The highest within-standard percentage was achieved in FY04 (96%), the first year in which data was collected for the Caseload Assessment. Despite the slight improvements in the overall ACT, over-standard ACT, and the within-standard percentage for civil cases in FY08, the Montgomery County Circuit Court has yet to meet the within-standard goal of 98% set by the State.

**Table A.1. Number of Civil Case Terminations FY04 through FY08**

Fiscal Year	Terminations		Within-Standard Terminations (18-month Standard)			Over-Standard Terminations (18-month Standard)		
	N	ACT*	N	% of Total	ACT*	N	% of Total	ACT*
FY04	3,415	198	3,271	96%	173	144	4%	774
FY05	6,022	206	5,742	95%	173	280	5%	898
FY06	5,545	209	5,283	95%	174	262	5%	915
FY07	6,320	222	5,936	94%	173	384	6%	978
<b>FY08</b>	<b>509**</b>	<b>213</b>	<b>485</b>	<b>95%</b>	<b>176</b>	<b>24</b>	<b>5%</b>	<b>952</b>

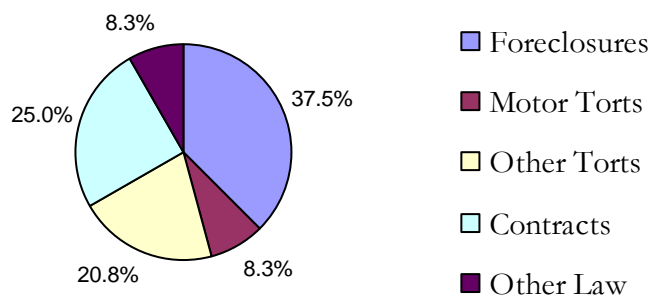
\* ACT = Average Case Time, in days.

\*\* The full civil caseload for FY08 is 7,243. The 509 cases for which performance data is provided represent a random sampling of the total FY08 caseload.

Overall, of the 509 civil cases randomly sampled for the FY08 Assessment, the most representative sub-types included: foreclosure (40%), other law (17%), and contract (16%) cases (results not displayed). The percentage of foreclosures cases increased by 10 percentage points from 30% in FY07 to 40% in FY08 reflecting the recent mortgage crises experienced in the County. The share of contracts declined from 20% in FY07 to 16% in FY08.

Chart A.1 displays the percentage of over-standard civil cases (24 cases) by case sub-type whereas Chart A.2 (see below) displays the percentage of within-standard civil cases (485 cases) by case sub-type. Analyzing the case sub-types for over- and within-standard cases may provide direction on future analyses that should be conducted to better explain the Court's processing of civil cases. Chart A.1 reveals that the three most represented case sub-types among over-standard civil cases were foreclosures (38%), contracts (25%) and other torts (21%). According to Chart A.2., foreclosure cases were the most represented category among

**Chart A.1**  
**Distribution of Over-Standard Civil Case Terminations by Case Sub-Type, FY2008**



the 485 within-standard civil cases (40%) followed by other law (17%) and contract (15%) cases. The Circuit Court may want to conduct subsequent analyses exploring whether certain civil sub-types consistently close over- or within-standard. Given limited variation in the within-standard ACT over time (see Table A.1), it may be interesting to examine how the distribution of sub-types impacts the percentage of cases closing within-standard, as well as the within-standard ACT. Contract and foreclosure cases were two of the most frequently represented sub-types among both over- and within-standard cases.

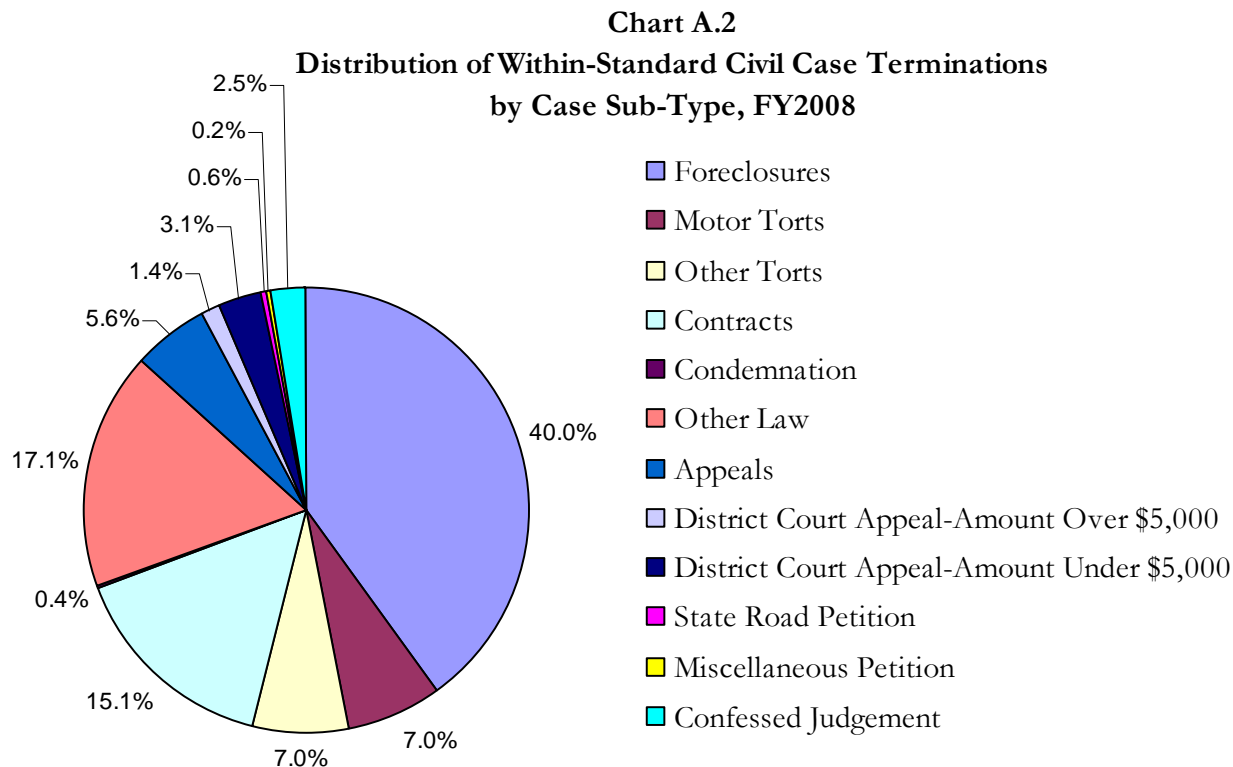


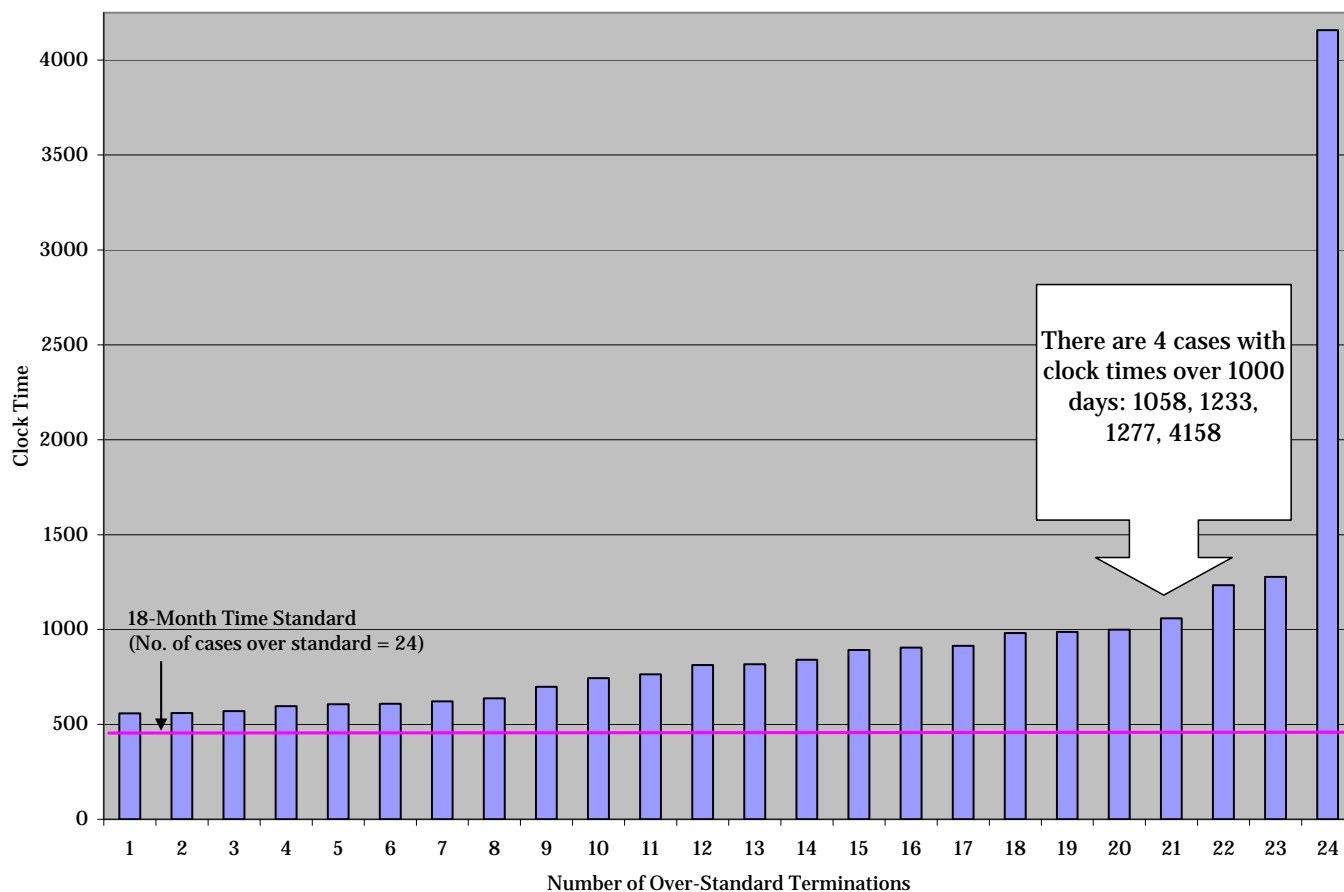
Figure A.1 provides the distribution of the case processing time among the 24 over-standard civil cases for FY08 and the 384 over-standard civil cases for FY07. The distribution of over-standard cases between the two fiscal years was fairly comparable except among the 90<sup>th</sup> and 95<sup>th</sup> percentiles, as well as for the maximum values, which are substantially smaller in FY08 than for FY07. As a result of fewer extreme case processing times, the FY08 mean (952 days) was 26 days shorter than the FY07 mean (978 days). However, we believe that the FY08's apparently better performance was not due to the Court's improved case processing performance but rather due to a change in the data collection method. Whereas FY07 results were based on the analysis that included all cases, the FY08 analysis was based on a sample of cases. While the sample was randomly selected, it is possible that the cases with the most extreme values were not selected for the FY08 sample. The comparison of median values suggests that as far as the case processing time among over-standard cases is concerned (815 days vs. 721 days), the FY08 performance may have in fact declined.

Of the 24 cases sampled that closed over-standard in FY08, approximately 25% closed within two months over the 548-day standard (N = 6), and 75% closed over a year and two months past the time standard (N = 18). In fact, four cases had clock times over 1,000 days ranging from 1,058 days to 4,158 days. Only 13% of cases closed within a month over-standard (N = 3). There was one over-standard civil case that took 4,158 days to process. The reason for the lengthy processing time was because this foreclosure case had a bankruptcy suspension without the time-standards defined suspension stop event (i.e., a discharge from the U.S. Bankruptcy Court); therefore, the suspension time was not excluded from the calculation of clock time. If the time had been suspended, the clock time would be reduced from 4,158 days to 40 days. As we discuss in more detail in Appendix I, Montgomery County Circuit Court

does not agree with the strict application of the time standards as defined by the Maryland Judicial Council as it relates to the application of the bankruptcy suspension event. The Circuit Court is of the opinion that when a case is stayed as a result of a time standards-defined bankruptcy suspension event and properly disposed of by a method other than that defined by the standards such as MD Rule 2-507, the suspension should be counted as valid.

**Table A.3 Distribution of Over-Standard Civil Cases by Clock Time, FY08**

Fiscal Year	N	(%)	Mean	Median	Percentile						Maximum
					5	10	25	75	90	95	
FY07	384	(100%)	978	721	558	567	616	954	1,710	2,662	6,038
FY08	24	(100%)	952	815	558	565	612	986	1,255	3,438	4,158



**Figure A.1 Civil Case Terminations that are over the 18-month Standard, FY08**

### *Case Terminations by Track*

Montgomery County Circuit Court's Differentiated Case Management (DCM) plan established six tracks for civil cases. A brief description of each follows<sup>7</sup>:

- Track 0: Legal cases with no discovery, or legal issues not requiring formal discovery. This track includes the following types of cases: District Court Appeals, Injunctions, Mechanic's Liens, Restraining Orders, Administrative Appeals, Mandamus Cases, Declaratory Relief, Forfeiture (money or vehicles), Landlord and Tenant Jury Demands and Appeals, and Sale in Lieu of Partition (excluding divorce). (N = 72)
- Track 1: Domestic – Track 1 has been dissolved. All new family cases are filed under the Family Division Tracking System and therefore, Track 1 cases are excluded from the civil tables.
- Track 2: Expedited – ½ day to 1 day trial estimate. This track (primarily) includes the following types of cases: Worker Compensation and Civil Jury Demands from the District Court. (N = 78)
- Track 3: Routine – 1 to 3 day trial estimate. This track includes the following types of cases: Auto Negligence-Personal Injury and Property Damage, Negligence-Personal Injury, Property Damage, and Slip and Fall, Breach of Agreement, Breach of Contract, Negligent Entrustment, Violation of Rights, Defamation of Character-Negligence, Wrongful Discharge, etc. (N = 88)
- Track 4: Complex – 3 or more day trial estimate. This track includes the following types of cases: Medical Malpractice, Legal Malpractice, Abuse cases, Fraud cases, Defamation of Character, etc. (N = 16)
- Track 5: Expedited – Business and Technology immediate service. (N = 0)
- Track 6: Standard – Business and Technology standard. (N = 0)
- Track N: Administratively tracked/Non-litigation. For FY08, the majority of Track N civil cases consist of foreclosures (80%) followed by other law cases (14%). (N = 255)

Table A. 4 displays data on case processing for within- and over-standard civil cases by DCM track. As the first section of the table shows, 50% of the terminated cases were Non-Tracked cases. Tracks 0, 2, and 3 represented 14%, 15%, and 17%, respectively of the civil cases terminated in FY08. The cases from these four tracks comprised 96% of the sampled FY08 civil terminations whereas Track 4 characterized only 3% of the sample. The overall ACT for civil cases was 213 days. Track 4 cases had the highest ACT at 473 days, followed by cases assigned to Tracks 2 and 3 (231 and 351 days, respectively). It is important to note that there were only 16 cases assigned to Track 4 and the distribution of case times for these cases ranged from 66 days to 1,277 days. There were four Track 4 cases that had substantially long case processing times in comparison to the other 12 cases (764, 840, 892, and 1,277 days). Given these four outliers in the Track 4 data, the median case processing time was calculated (results not displayed in report tables). The median analysis revealed the same pattern as the mean analysis in that Track 4 cases had the highest median value at 419 days followed by Track 3 cases (372 days) and Track 2 cases (214 days). Track 0 cases had the shortest ACT at 91 days, approximately 3 months and a median case time of 65 days.

Of the cases constituting 96% of all the FY08 civil terminations (i.e., those in Tracks 0, 2, 3, as well as Non-Tracked cases), Track 0 cases met the state compliance rate of 98% case closures within-standard. Track N and Track 2 cases almost met the state compliance standard with a within-standard percentage of 97%. These findings are similar to those achieved in FY07. Specifically, in FY07, Tracks 0, N, and 2 either achieved or were close to achieving the 98% state defined time standard goal. Similar to the past two fiscal years, Track 3 cases in FY08 carried a large percentage of over-standard cases (i.e., 33%). However, in FY08, Track N cases carried the largest percentage of over-standard cases at 38% as opposed

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<sup>7</sup> It is important to note that Domestic – Track 1 has been dissolved. All new family cases are filed under the Family Division Tracking System and therefore, Track 1 cases are excluded from the civil tables.

to Track 3 in FY07 (at 40%). Last fiscal year, it was revealed that although Track 4 cases constituted only 3% of the FY07 civil terminations, they represented 13% of the over-standard terminations. In FY08, a similar pattern emerged. Particularly, although Track 4 cases constituted only 3% of the FY08 civil terminations, they represented 21% of the over-standard terminations.

Track N and Track 3 cases accounted for over 70% of the over-standard cases for FY08, which was similar to the finding obtained for FY07. One potential way to improve the efficiency of civil case processing for FY09 may be to focus on cases assigned to Tracks N and 3 as these cases seem to have been of particular concern for the past two fiscal years. If all seventeen Track N and Track 3 cases were to have closed within-standard, the Circuit Court would have achieved the state-defined time standard goal of closing 98% of civil cases within-standard. It may be equally important to further improve the efficiency of case processing for Track 4 cases, which were also over-represented among over-standard cases (21% in over-standard terminations vs. 3% the overall terminations). Improvements in the case processing time for these tracked cases will contribute to an overall improvement in case processing efficiency.

The largest discrepancy in ACT between cases that terminated within-standard and those that terminated over-standard occurred within Track N cases. Overall, the ACT for Track N cases was 177 days. The vast majority (97%) of Track N cases closed within-standard, with an ACT of 139 days. The remaining 3% of Track N cases averaged 1,228 days, over 8 times as long as the within-standard ACT. It may be worthwhile to examine the case processing time and the within-standard percentage of Track N cases by case sub-type to see if particular sub-types were responsible for the lengthier processing times as well as the lower within-standard percentage.

**Table A.4. FY08 Civil Case Terminations by Termination Status (Within or Over the 18-month Standard) and Track**

DCM Track	Overall Terminations			Within-Standard Terminations				Over-Standard Terminations			
	N	% of Total	ACT*	N	% of Track	% of WST*	ACT*	N	% of Track	% of OST*	ACT*
Track 0	72	14%	91	72	100%	15%	91	0	0%	---	---
Track 2	78	15%	231	76	97%	16%	216	2	3%	8%	805
Track 3	88	17%	351	80	91%	16%	313	8	9%	33%	730
Track 4	16	3%	473	11	69%	2%	294	5	31%	21%	866
Track 5	---	---	---	---	---	---	---	---	---	---	---
Track 6	---	---	---	---	---	---	---	---	---	---	---
Track N	255	50%	177	246	97%	45%	139	9	3%	38%	1,228
Total	509	100%	213	485	95%	100%	176	24	5%	100%	952

\* ACT = Average Case Time, in days; WST = Within-Standard Terminations; OST = Over-Standard Terminations.

Note: Percentages do not always add to 100% due to rounding.

#### *Case Terminations by Trial Postponements*

As shown in Table A.5, only 17 cases had trial postponements, constituting only 3% of all the civil terminations for FY08, which is equivalent to the 3% achieved for FY07. Of the cases with trial postponements, over three-fourths (77%) closed within-standard. In addition, all Track 0 and Track 2 cases that had trial postponements closed within-standard. In contrast, only half of the Track 3 postponed cases closed within-standard. Similar to FY07, the average case time among over-standard civil cases without trial postponements in FY08 was higher than for those with trial postponements (976 days and 830 days, respectively). The only instance in which this was not the case was for Track 4 cases. In particular, the over standard ACT for postponed Track 4 cases was 1,059 days whereas the over-standard ACT for Track 4 cases that were not postponed was 738 days. In contrast, among Track 3 cases, the ACT

for over-standard cases with trial-postponements was less than that of the over-standard cases without postponements (601 days versus 773 days). Among Track 3 cases without trial postponements (N = 6), one was an ‘other tort’ case, 3 were ‘contract’ cases, and 2 were ‘other law’ cases. For the 20 over-standard cases without trial postponements, 45% were ‘foreclosure’ cases, 20% were ‘other tort’ cases, 25% were ‘contract’ cases, and 10% were ‘other law’ cases. Subsequent analyses should examine whether other types of postponements such as pre-trial postponements are responsible for the larger case processing times among cases without trial postponements. Such additional postponement analysis should be further dissected by case track and sub-type. Also, since most of the 20 over-standard cases without postponements were foreclosures, it may be interesting to see the extent to which these cases had bankruptcy suspension events that were not accounted for because the Court did not receive the lift from the U.S. Bankruptcy Court.

**Table A.5. FY08 Civil Case Terminations by Trial Postponements, Termination Status (Within or Over the 18-month Standard), and Track**

DCM Track	Total Terminations	<u>With Trial Postponements</u>								
		Overall Terminations			Within-Standard Terminations			Over-Standard Terminations		
		N	% of Total Track	ACT*	N	% of Track	ACT*	N	% of Track	ACT*
Track 0	72	7	10%	125	7	100%	125	0	0%	---
Track 2	78	4	5%	302	4	100%	302	0	0%	---
Track 3	88	4	5%	551	2	50%	501	2	50%	601
Track 4	16	2	12%	1059				2	100%	1059
Track 5										
Track 6										
Track N	255									
Total	509	17	3%	377	13	77%	237	4	24%	830
DCM Track	Total Terminations	<u>Without Trial Postponements</u>								
		Overall Terminations			Within-Standard Terminations			Over-Standard Terminations		
		N	% of Total Track	ACT*	N	% of Track	ACT*	N	% of Track	ACT*
Track 0	72	65	90%	87	65	100%	87	0	0%	
Track 2	78	74	95%	227	72	97%	211	2	3%	805
Track 3	88	84	95%	342	78	93%	308	6	7%	773
Track 4	16	14	88%	390	11	79%	294	3	21%	738
Track 5										
Track 6										
Track N	255	255	100%	177	246	97%	139	9	4%	1228
Total	509	492	97%	207	472	96%	139	20	4%	976

\* ACT = Average case time, in days.

As noted in previous years’ reports, the relationship between trial postponements and case processing status is complicated. As noted in Table A. 5, the majority of civil cases with trial postponements closed within-standard. Even if the four postponed, over-standard cases had somehow closed within-standard, the Circuit Court would not have achieved the state defined time standard goal of 98%. Among over-standard cases that had trial postponements, 50% were from either Track 3 or Track 4. It is important to note; however, that overall, there were very few over-standard civil cases with trial postponements in FY08 (N = 4, Track 3 = 2 and Track 4 = 2). Trial postponements did not explain the entirety of why Track 3 and Track 4 cases were more likely to close over-standard. Seven percent of Track 3 cases that were not postponed still closed over the time standard, and 21% of Track 4 cases that were not postponed cases still failed to close within the state-defined time standard. The percentage of non-



postponed cases in other tracks including Track N that closed over-standard ranged from 3% to 4%.<sup>8</sup> Because the percentage of Track 4 cases and, to a (much) lesser extent, Track 3 cases were over-standard without trial postponements, factors other than trial postponements such as recurring pre-trial settlement hearings may be impacting the processing time of these cases because often times pre-trial settlement hearings are used to delay the scheduling of trial dates. It is also important to note that the overall over-standard case processing time for cases without trial postponements is greater than that for cases with trial postponements. One reason for this is the large case processing time among the nine Track N cases that closed over-standard without any trial postponements. In fact, Track N cases had the highest over-standard ACT compared to all other over-standard ACTs for any other Tracked case. A potential explanation for this finding is that since Track N cases represent the Court's foreclosure cases, which often include a bankruptcy, the time for the bankruptcy suspension was not excluded because the appropriate suspension stop date was not captured (i.e., the discharge from the bankruptcy court).

### *Case Terminations by the Number of and Reasons for Trial Postponements*

For FY08, 71% (FY07: 79%) of terminated civil cases in the sample had one trial postponement, 24% (FY07: 14%) had two trial postponements, and approximately 4% (FY07: 7%) had three postponements (see Table A.6). Half of the over-standard civil case terminations that had trial postponements were postponed only once. Among this sample of civil cases, as the number of postponements increased from one to two, the percentage of cases closing over-standard also increased from 17% to 50%. However, caution should be exercised when using this finding to inform or implement management or procedural changes because there are very few postponed civil cases sampled that closed over-standard (N = 4), and Montgomery County Circuit Court is only considering trial postponements in their caseload data.

**Table A.6. Postponed Civil Cases by the Number of Trial Postponements and Termination Status, FY07 and FY08**

Number of Postponements	All Cases			Within-Standard Cases			Over-Standard Cases			% of Over-Standard/All Cases	
	N	% (FY08)	(FY07)	N	% (FY08)	(FY07)	N	% (FY08)	(FY07)	(FY08)	(FY07)
1	12	71%	79%	10	77%	87%	2	50%	58%	17%	21%
2	4	24%	14%	2	15%	12%	2	50%	18%	50%	38%
3	1	6%	7%	1	8%	1%	0	0%	22%	0%	87%
4+	0	0%	< 1%	0	0%	0%	0	0%	2%		100%
Total	17	100%	100%	13	100%	100%	4	100%	100%	24%	29%
% Postponed		3%	3%		3%	3%		17%	16%		

Note: Percentages do not always add to 100% due to rounding.

### *Supplemental Civil Analyses*

#### Foreclosure Analysis: Comparing Performance for a Modified Case Stop Date

During the data quality review phase of the FY08 Caseload Assessment, a question was raised by a jurisdiction regarding the appropriate case stop date for foreclosure cases. It appears that Circuit Courts vary in their opinion as to the "correct" case stop date for caseload assessment purposes. Specifically, of

<sup>8</sup> Given the small number of Track 4 cases (N = 16), caution should be exercised when drawing conclusions from the analysis of these cases. Table A.5 reveals that the majority of Track 4 cases did not have trial postponements (88%).

the 24 Maryland jurisdictions, 16 Circuit Courts indicated that the case stop date should be the ratification of the auditor's report whereas 7 Circuit Courts indicated that it should be the ratification of sale<sup>9</sup>.

Montgomery County Circuit Court closes foreclosure cases at the ratification of sale, which could be several months prior to the ratification of the auditor's reports. Among the 509 civil cases sampled, 203 cases (40%) were characterized as foreclosures. Among the 203 foreclosure cases, 90 (44%) cases were closed via the ratification of sale while others were closed before that event occurred by way of a dismissal by a petitioner's line; dismissed without prejudice; dismissed by MD Rule 2-507, etc. There were five additional foreclosure cases that were closed via ratification of sale without the ratification of the auditor's report, resulting in a total of 85 foreclosure cases that had a ratified auditor's report in the case file.<sup>10</sup>

Table A.9 compares civil case performance when the ratification of sale was used as the case stop date for the 90 affected foreclosure cases, and when the auditor's report was used as the case stop date for the 85 affected foreclosure cases. As shown, there was no change in the within-standard percentage when the two different case stop dates were used. In particular, whether the ratification of sale or the auditor's report was used as the case stop date, 95% of civil cases closed within-standard. In contrast, the ACT increased for civil cases overall, as well as among within-standard civil cases. There was an increase of 15 days (7%) in the ACT for civil cases overall whereas the within-standard civil cases experienced an increase in the ACT by 16 days (9%). There was no change in the ACT for over-standard cases.

Among the 85 foreclosure cases for which a date for the ratified auditor's report was available, the average number of days to process these cases was 210. In contrast, when the ratification of sale was used as the case stop date for these 85 cases, the average case time was 121 days. Therefore, it takes approximately three additional months to close foreclosure cases at the ratification of the auditor's report rather than at the ratification of sale. When civil case performance was examined as a whole (see Table A.9), the impact of using the ratification of the auditor's report as the case stop date on case processing time was obviously muted. Specifically, the difference in ACT across all civil cases when this alternative case stop was used was only 15 days, approximately two weeks. Despite a marked increase among foreclosure cases that had a ratified auditor's report available in the case file, there did not appear to be a marked impact on civil case processing performance overall. At this point it is incumbent upon the AOC and the Circuit Court Time Standards Sub-Committee to determine which case stop date (i.e., the ratification of sale or the ratification of the auditor's report) should be used as the stop date for foreclosure cases included in the caseload assessment. At this time, Montgomery County Circuit Court is of the opinion that the case stop date for foreclosure should be the ratification of sale. However, no matter which date is used, the analysis performed herein suggests that the performance is not dramatically affected.

**Table A.9. Performance of Civil Cases: Auditor's Report versus Ratification of Sale as Case Stop Date**

Case Stop Date	Overall Terminations		Within-Standard Terminations			Over-Standard Terminations		
	N	ACT	N	%	ACT	N	%	ACT
Auditor's Report	509	228	485	95%	192	24	5%	952
Ratification of Sale	509	213	485	95%	176	24	5%	952
Differences		15	0	0%	16	0	0%	0

<sup>9</sup> One jurisdiction did not provide information as to which date is currently being used to close their Court's foreclosure cases.

<sup>10</sup> The Circuit Court Time Standards Sub-Committee needs to discuss all appropriate case stop dates to be used for foreclosure cases in terms of the Caseload Assessment. It also needs to be determined whether dismissed foreclosure cases, for example are to be included in the analysis when a ratified auditor's report was not received. For this analysis, when the auditor's report was not received in a case but the sale was ratified, the case stop date used was the ratification of sale (N = 5). These cases remain in our supplemental analysis so as to keep all case times constant except for those cases for which an auditor's report was obtained.

### ***Summary of Civil Findings***

- A random sample of 509 civil cases had original closures in FY08 with an average case processing time (ACT) of 213 days. The overall ACT for civil cases closed in FY08 was 9 days lower than what was achieved in FY07.
- Ninety-five percent of civil cases closed in FY08 were within the 18-month time standard (548 days). The ACT among within-standard cases was 176 days compared to 952 days for over-standard cases.
- Since FY04, the Circuit Court has consistently closed over 90% of its civil cases within-standard. However, despite this level of stability in within-standard civil case processing, Montgomery County Circuit Court has yet to meet the within-standard goal of 98% set by the State.
- Civil cases from Tracks 0, 2, 3, and N comprise 96% of all the FY08 civil case closures. Track 0 cases met the state compliance rate of 98% case closures within-standard.
- Similar to the past three fiscal years, Track N and 3 cases in FY08 carried a large percentage of over-standard cases (i.e., 38% and 33%, respectively). While Track 4 cases constituted only 3% of the FY08 civil terminations, such cases accounted for 21% of the over-standard terminations.
- Of the 509 civil cases sampled for the Assessment, only 17 (3%) had trial postponements. Of the cases with trial postponements, over three-fourths (77%) closed within-standard. At least half of the Track 3 and Track 4 postponed cases closed over-standard.
- Even if all four postponed over-standard cases somehow closed with-standard, the Court's compliance with the standard would have only increased to 97%, which is still below the stated defined time standard goal of 98%.

### ***Recommendations for Future Civil Analyses***

- The Montgomery County Circuit Court plans to conduct a more in-depth analysis of its case processing performance by examining how well cases perform against its DCM time standards. By examining how cases perform against the DCM time standards, the Court can determine at which stage of the case that performance begins to falter. Any early indication of performance slippage will serve as a preemptive warning for Court personnel that efforts need to be undertaken to reserve further performance decline.
- Examine all postponements, not simply trial postponements, as well as other factors that may delay the scheduling of certain key events, such as pre-trial settlement conferences. In order to assess their impact on case processing time. Further, analyze the impact of postponements on case processing time only for those instances where the time associated with the postponement is not suspended.
- Examine whether certain civil sub-types consistently close within-standard and, if so, examine whether and how these case sub-types may (in some way) affect the average case process time for within-standard cases as well as the percentage within-standard. It also may be useful to examine those civil sub-types that represent a large percentage of over-standard cases (e.g., foreclosure and contract cases) to identify factors that led to the case closing over-standard, given a large percentage of these cases also tend to close within-standard.
- Improve the case processing for Non-Tracked and Track 3 cases. These cases have large terminated caseloads and are over-represented among the over-standard terminations. It may be equally important to further improve the efficiency of case processing for Track 4 cases.

### ***Recommendations to the Circuit Court Time Standards Sub-Committee***

- Certain suspension events require a specific docket entry upon receipt of information obtained by an entity other than the Court. For example, courts may not receive a notice from the U.S. Bankruptcy Court as to the discharge date of the case. According to the AOC, this discharge date is the stop date for the bankruptcy suspension event. The issue of suspensions become further

complicated when multiple complaints/defendants are involved since a suspension for one individual may not necessarily stop the case proceedings for others in a case, and it is not certain if the case time should be suspended under such circumstances. The Circuit Court Time Standards Subcommittee is requested to examine each of these suspension scenarios and provide clear guidelines as to how such events should be interpreted by the Circuit Courts.

- Additional clarity needs to be obtained regarding what constitutes non-binding arbitration, and how non-binding arbitration differs from mediation as well as Alternative Dispute Resolution (ADR). At this point, it appears that the burden of interpretation is left to jurisdictions, which is problematic considering non-binding arbitration is considered a suspension event for the Caseflow Assessment. It is recommended that the Subcommittee or other appropriate entity develop a clear definition of non-binding arbitration so that courts can ensure that they are utilizing the suspension appropriately.
  - Also, currently the suspension stop date for the non-binding arbitration is the date the case is reinstated. It is unclear the extent to which other non-binding arbitration related outcomes such as the successful completion of the arbitration or case dismissal are included in the arbitration-related suspension. It is important that the Subcommittee address all possible outcomes for a given suspension event.
- Questions have been raised about whether other suspension events, which render a case inactive, should be included in the Caseflow Time Standards. For example, it is recommended that time is suspended when a case cannot proceed because it is waiting for a decision from the: Federal Court, Attorney General's Office, another Jurisdiction, or the Court of Appeals (in another case). It is also recommended that case time is suspended in a case where an order of rehabilitation has been granted (similar to the bankruptcy suspension).
- Currently, Administrative closure, Bankruptcy (BK) and Non-Participant (NP) are being used as valid civil dispositions in UCS (and included in the caseflow) even though they are no longer considered as such. It is requested that the Subcommittee evaluate the merits and possible implication of removing each of these codes from the UCS system and devise appropriate action plans (so that judges won't close cases administratively). Upon the Committee's approval, the list will be made available to jurisdictions.
  - It is our understanding that there are certain instances where an Administrative Closure by the Clerks is appropriate. Therefore, removing the Administrative Closure code may not be appropriate; however, courts need to be informed of under which condition they can administratively close cases.
- Courts are inconsistent as to how they are closing cases. For instance, in the FY08 data, certain Circuit Courts are closing foreclosure cases on the final ratification of sale while others are using the final ratification of the auditor's report. The final ratification of sale occurs prior to the final ratification of the auditor's report. It would be desirable that the Subcommittee or other appropriate rule-making bodies develop guidelines that delineate how types of certain cases or cases in particular circumstance should be closed.
- Concerns have been raised about the inclusion of cases transferred in from another jurisdiction. An argument has been made that such cases should be removed from the Caseflow Assessment. The primary reason given for removal is that when the case is transferred-in the "true" performance of that case is not being measured (from the perspective of the Court who "ends-up" with the case). Among such transferred-in civil case, the filing date used by UCS as the case start is associated with the original court. Accordingly, the performance being measured while associated with the Court where the case "ended-up" includes a portion of time when the case was under the control of the original court.

# Criminal Case Terminations

## Fiscal Year 2008 Case Terminations

### B. Criminal Case Processing Definitions and Summary

	Criminal Case Time Definitions	Percent Within 6 Month (180 day) Standard	Additional Montgomery County Measurements
<b>Criminal Case Standards and Montgomery County Measures</b>			<u>Arrest/Service to Filing:</u> CY 2001: 121 days CY 2002: 138 days CY 2003: 124 days FY 2005: 125 days FY 2006: 121 days FY 2007: 112 days FY 2008*: 116 days
	<u>Case Time Start:</u> First appearance of defendant or entry of appearance by counsel  <u>Case Time Stop:</u> Disposition (PBJ, Stet, NP, NG, Sentencing, NCR finding)	<u>State-Set Goal:</u> 98%  <u>Montgomery County:</u> CY 2001: 96% CY 2002: 91% CY 2003: 90% FY 2005: 90% FY 2006: 90% FY 2007: 89% FY 2008*: 86%	<u>Filing to First Appearance:</u> CY 2001: 12 days CY 2002: 18 days CY 2003: 15 days FY 2005: 19 days FY 2006: 18 days FY 2007: 15 days FY 2008*: 17 days  <u>Verdict to Sentence:</u> CY 2001: 24 days CY 2002: 46 days CY 2003: 51 days FY 2005: 108 days FY 2006: 88 days FY 2007: 97 days FY 2008*: 75 days  <u>Average Case Processing Time:</u> CY 2001: N/A CY 2002: 89 days CY 2003: 89 days FY 2005: 86 days FY 2006: 84 days FY 2007: 92 days FY 2008*: 94 days
Note: Criminal case time is suspended for bench warrant, failure to appear, mistrial, NCR evaluation, petition for reverse waiver, competency evaluation, PSI order, pre-sentencing treatment program, interlocutory appeal, military leave, pre-trial sentencing treatment, and DNA testing. * FY2008 results are based on the sample.			

## Overall Criminal Case Terminations

The number of original criminal case terminations during Fiscal Year 2008 (FY08) was 2,613, 128 additional terminations, or a 5% increase, from the FY07 level. Table B.1 summarizes the Court's criminal case processing performance for FY04 through FY08. For FY08, based on a random sample of 510 cases, the percent of cases closed within the state 6-month standard was 86%, which exhibited the same trend observed over the past 5 fiscal years – a gradual but continuous decline since FY04 from 91% to 86% in FY08. The overall average case processing time (ACT) in FY08 was 95 days, 3 additional days from that of FY07 and 11 more days from the FY06 level. The ACT among the within-standard cases was 69 days for FY08, 4 days longer than that for FY07, which corresponds with the declining percent of within-standard terminations. The ACT for the cases with over-standard terminations was reduced to 254 days, 41 days shorter than the FY07 (295 days), or a 14 percent reduction. However, as we noted in last year's report, the substantially increased ACT among over-standard cases for FY07 was largely due to a handful of cases with extremely long case-processing times, ranging from 2,300 to 6,700 days; without these cases, the FY07 ACT among over-standard cases would be 257 days, equivalent to the FY06 level. Thus, the ACT among over-standard cases has been in gradual decline.

**Table B.1. Number of Criminal Case Terminations, FY04-FY08**

Fiscal Year	Terminations		Within-Standard Terminations			Over-standard Terminations		
	N	ACT*	N	%	ACT*	N	%	ACT*
FY04	2,035	94	1,852	91%	63	183	9%	402
FY05	2,383	86	2,155	90%	65	228	10%	286
FY06	2,481	84	2,239	90%	65	242	10%	260
FY07	2,485	92	2,205	89%	66	280	11%	295
<b>FY08**</b>	<b>(505)</b>	<b>95</b>	<b>(435)</b>	<b>86%</b>	<b>69</b>	<b>(70)</b>	<b>14%</b>	<b>254</b>

Maryland criminal case time standard and goal: 6 months and 98% within-standard terminations

\* ACT = Average Case Time, in days.

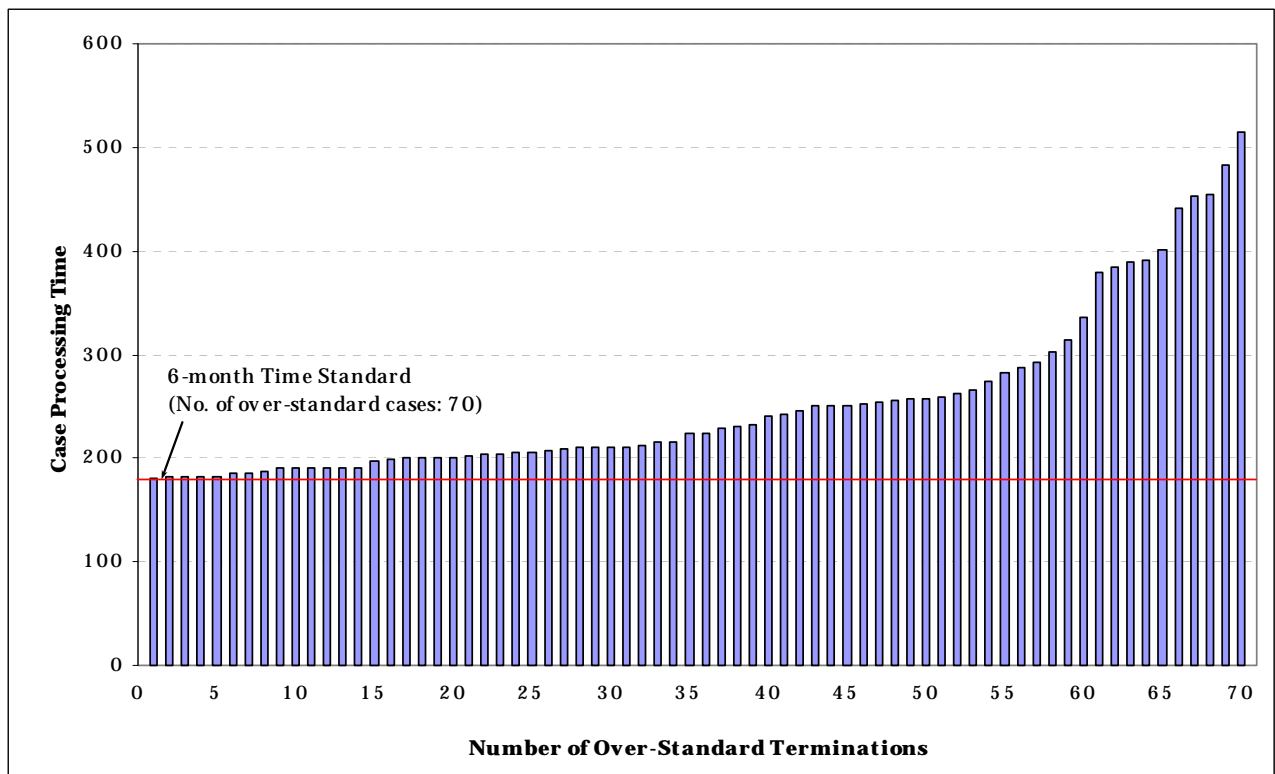
\*\* The full criminal caseload for FY08 is 2,613. The 505 cases for which performance data is provided represent a random sampling of the total FY08 caseload.

Since FY06, the Court has witnessed a decline in its within-standard percentage indicating that the Court has somehow been unable to process cases as efficiently as in the past. While the increased caseload may be an attributing factor for the declined case-processing performance, additional investigation is needed to identify other factors that have contributed to the lowered outcome and develop plans to reverse the trend.

**Table B.2 Distribution of Over-Standard Criminal Cases by Clock Time and Track, FY07 and FY08**

Fiscal Year	N	Mean	Median	Percentile						
				5	10	25	75	90	95	Max
FY07	280	295	227	183	187	197	291	362	473	6,728
<b>FY08</b>	<b>70</b>	<b>254</b>	<b>224</b>	<b>182</b>	<b>187</b>	<b>200</b>	<b>265</b>	<b>390</b>	<b>448</b>	<b>514</b>

Table B.2 presents summary statistics of over-standard cases for FY07 and FY08, while Figure B.1 displays the distribution of the case processing time for FY08 over-standard cases. As shown on the table, the FY08 figures are comparable or slightly better than those for FY07, in particular the 50<sup>th</sup> through 95<sup>th</sup> percentiles, indicating that the Court may now be able to close cases without having them extremely over-standard. Both the figure and table indicate that approximately 10% of the FY08 over-standard cases, approximately 34 cases (an estimate), were closed within a week past the 6-month time standard. As part of improving the criminal case processing performance, it may be worthwhile for the Court to investigate these cases, identify factors that led to their over-standard terminations, and develop strategies to prevent similar cases from closing over-standard.



**Figure B.1 Criminal Case Terminations that are over the 6-month standard, FY08.**

#### *Case Terminations by Track*

Montgomery County Circuit Court's Differentiated Case Management (DCM) plan currently has the following 5 tracks for criminal cases:

- Track 0: Information Little or No Discovery
- Track 1: District Court Jury Demand and Appeals
- Track 2: Routine, Defendant Locally Incarcerated
- Track 3: Routine, Defendant on Bond/Writ Status
- Track 4: Complex

Table B.3 presents the breakdown of the FY08 criminal case terminations by the Criminal DCM Track and track-specific case-processing statistics (ACT for within- and over-standard terminations and the percent of cases closed within-standard). As the first section of the table shows, 42% of the terminated cases were Track 1, 27% from Track 3, and 17% from Track 2. The percentages are equivalent to those in FY07 (Track 1: 44%, Track 3: 27%, and Track 2: 19%). The cases from these 3 tracks cover close to 90% of all the FY08 criminal terminations.

In FY07, Track 4 cases had the ACT of 227 days, 47 days over the state 6-month time standard; however, in FY08, it was 186 days, slightly above the standard. As shown on the table, over 40% of Track 4 cases resulted in over-standard terminations with the ACT of 294 days. In contrast, Track 1 cases are the model case type for the assessment; they had the shortest ACT at 33 days (36 days for FY07) and a 98% within-standard termination, equivalent to the state goal. Thus, while increases in Track 4 cases relative to the number of cases in other tracks would guarantee a reduced within-standard percentage and increased overall ACT; in contrast, increases in Track 1 cases would have the similar impact but in the

opposite direction. In fact, between FY06 and FY08, the percentage of Track 1 cases declined from 47% to 42%. Had the Court maintained the same level of efficiency in processing criminal cases for the past 5 fiscal years, the observed decline in the overall criminal case-processing performance may have in part been due to the change in the composition of criminal cases over time, mainly reduction of Track 1 cases relative to those in other tracks, in particular Tracks 3 and 4 cases.

**Table B.3. FY08 Criminal Case Terminations by Termination Status (Within or Over the 6-month Standard) and Track**

DCM Track	Overall Terminations			Within-Standard Terminations				Over Standard Terminations			
	N	% of Total	ACT*	N	% of WST*	% of Track	ACT*	N	% of OST*	% of Track	ACT*
Track 0	12	2%	94	10	2%	83%	72	2	3%	17%	207
Track 1	213	42%	33	209	48%	98%	29	4	6%	2%	241
Track 2	84	17%	121	71	16%	85%	100	13	19%	15%	236
Track 3	135	27%	133	109	25%	81%	110	26	37%	19%	231
Track 4	61	12%	186	36	8%	59%	111	25	36%	41%	294
Total	505	100%	95	435	100%	86%	69	70	100%	14%	254

\* ACT = Average Case Time, in days; WST = Within-Standard Terminations; OST = Over-Standard Terminations.

Note: Percentages do not always add to 100% due to rounding.

Of the 5 DCM Track-specific cases, only those in Track 1 met the state compliance rate of 98% of cases closing within-standard (it was 99% for FY07). The percentage of within-standard terminations for Tracks 0, 2, 3, and 4 was 83% (96% for FY07), 85% (88% for FY07), 81% (81% for FY07), and 59% (61% for FY07), respectively. As indicated above, any increase in these tracked cases would have inevitably resulted in an increase in the number of over-standard terminations, and it appears that the trend may be heading toward that direction. Facing this, the Court may need to re-evaluate its current processing practices of these cases and devise plans to increase the percentage of cases closed within the standard. As shown in Table B.2, at least 10% of over-standard cases were terminated within 7 days beyond the time standard. Examining these cases and identifying factors that may have caused them to close over-standard may be one of the effective ways to not only prevent the case processing performance measures from falling but also to improve it.

#### *Case Terminations by Trial Postponements*

Table B.6 compares cases that had trial postponements to those that did not by their 6-month termination status. Among cases terminated during FY08, 49% had at least one trial postponement, comparable to the FY07 level (51%) and slightly greater than the FY06 level (45%). The over-standard rate for the postponed cases was 25% in FY08, compared to 20% in FY07 and 19% in FY06.

While on average, 25% of the cases with trial postponements were closed over-standard in FY08, over 70% of postponed cases were concentrated in Tracks 2, 3 and 4, where 70-80% of the cases experienced at least one trial postponement (Track 2: 82%, Track 3: 76%; Track 4: 70%). In contrast, only 11% of Track 1 cases had trial postponements. Among the cases with trial postponements in Tracks 0 and 1, the over-standard percentage is 13-14%; among those in Track 2 and 3 it is about 20%; and among Track 4 cases, the rate is 51%. This differential impact of trial postponements on the case termination status by track suggests the interaction between terminations and case complexity. In particular, among Track 4 cases, with trials postponed, the chance of having the case closed within the time standard is 50%. The Court may need to be cognizant about the risk of closing case over-standard when granting trial postponements to such cases.



The bottom half of the Table B.6 presents the same results for the cases that did not have trial postponements. Over 70% of these cases were found in Track 1. On average, 97% of cases without trial postponements were closed within standard. Thus, even among criminal cases without postponements, the Court was unable to achieve the state goal of closing 98% within-standard terminations. That said, the within-standard percentage among terminations without postponements is noticeably higher. Track-specific examination reveals that among cases in Tracks 1 and 2, avoiding trial postponements almost guarantees a 100% within-standard terminations. In contrast, 12-20% of cases in Tracks 0, 3, and 4 were closed over-standard even without trial postponements. In the future, if the number of cases in these tracks increases relative to that in Tracks 1 and 2, the overall criminal case processing performance is expected to deteriorate even if the Court eliminates trial postponements.

**Table B.6. FY08 Criminal Case Terminations by Trial Postponements, Termination Status (Within or Over the 6-month Standard), and Track**

<u>Terminations <b>With</b> Trial Postponements</u>										
DCM Track	Total Terminations	Overall Terminations % of Total			Within Standard Terminations			Over Standard Terminations		
		N	Track	ACT*	N	%	ACT*	N	%	ACT*
Track 0	12	7	58%	113	6	86%	96	1	14%	216
Track 1	213	24	11%	96	21	88%	76	3	13%	236
Track 2	84	69	82%	135	56	81%	112	13	19%	236
Track 3	135	102	76%	148	80	78%	125	22	22%	233
Track 4	61	43	70%	223	21	49%	136	22	51%	306
Total	505	245	49%	152	184	75%	116	61	25%	260
<u>Terminations <b>Without</b> Trial Postponements</u>										
DCM Track	Total Terminations	Overall Terminations % of Total			Within Standard Terminations			Over Standard Terminations		
		N	Track	ACT*	N	%	ACT*	N	%	ACT*
Track 0	12	5	42%	67	4	80%	35	1	20%	197
Track 1	213	189	89%	25	188	99%	24	1	1%	256
Track 2	84	15	18%	57	15	100%	57	0	0%	0
Track 3	135	33	24%	87	29	88%	69	4	12%	219
Track 4	61	18	30%	96	15	83%	75	3	17%	204
Total	505	260	51%	41	251	97%	34	9	3%	216

\* ACT = Average case time, in days.

#### *Case Terminations by the Number of and Reasons for Trial Postponements*

Table B.7 presents the number of trial postponements experienced among the 245 postponed cases, among the 184 cases that were closed within the time standard, and among the 61 postponed cases that terminated over-standard for FY08. Similar to FY07, nearly half of the cases terminated in FY08 experienced at least one trial postponement and over 95% of the cases had one (84%) or two (12%) trial postponements. In FY08 42% of the cases that closed within-standard had one or more trial postponements, compared to 57% in FY07. The distribution of the cases by the number of postponements is comparable between FY08 and FY07. In FY08, 87% of the over-standard cases had at least one trial postponement, which was 8 percentage points down from the FY07.

The last 2 columns of the table present the percent of cases closed over-standard given the number of trial postponements. As expected, cases with multiple trial postponements, in particular 3 or more, were over-represented among the over-standard cases. While overall 25% of cases with trial postponements closed over-standard, 83% of the cases with 3 trial postponements closed over-standard and 100% of those with 4 or more trial postponements. We also note that in general the percent of over-standard cases increased between FY07 and FY08. It seems that while the percentage of cases with trial postponements declined between FY07 and FY08, the cases with trial postponements were more likely to close over-standard in FY08 than in FY07 (the only exception is the cases with 2 trial postponements).

**Table B.7. Postponed Cases by the Number of Trial Postponements and Termination Status, FY08**

Number of Postponements	All Cases			Within-Standard Cases			Over-Standard Cases			% of Over-Standard/All Cases	
	N	%		N	%		N	%		(FY08)	(FY07)
1	206	84%	82%	162	88%	89%	44	72%	54%	21%	14%
2	29	12%	14%	21	11%	9%	8	13%	33%	28%	49%
3	6	2%	3%	1	1%	2%	5	8%	9%	83%	59%
4+	4	2%	1%	0	0%	0%	4	7%	3%	100%	86%
Total	245	100%	100%	184	100%	100%	61	100%	100%	25%	20%
% Postponed		49%	51%		42%	57%		87%	93%		

Similar to previous fiscal years, the most frequently cited trial postponement reason for criminal cases is “System-Generated Initial Trial Date Not Conformed to Counsels’ Availability”<sup>11</sup>. The significantly higher occurrence of scheduled-related trial postponements observed in FY08 could again be one of the issues to be considered in an effort to reduce the number of over-standard criminal cases. According to Maryland Rule 4-271, the Court is required to set a trial date for criminal cases within 30 days after the appearance of counsel or the first appearance of the defendant, whichever comes first. In order to comply with this Rule, the Circuit Court automatically schedules a trial date within the 30-day time limit when the case is filed in the Criminal Department without consulting any of the involved parties. As a result, many trials need to be rescheduled to ensure the availability of all involved parties. It is therefore not surprising that approximately 70% of the criminal cases with trial postponements in FY2008 cited ‘System-Generated Initial Trial Date’ as the first reason for postponing the trial.

In the FY06 Caseflow Report, we argued that the rescheduling of a criminal trial due to the unacceptability of the computer-generated trial date should not be considered a postponement because the first trial date was never agreed upon by parties. The comparison of the within-standard termination rate between postponed cases due to computer-generated trial date conflicts and those due to other reasons once again supports this argument. Based on previous analyses revealing a negative impact of the “System-Generated Initial Trial Date” postponements on case processing performance, it is requested that the Circuit Court convene an internal meeting to discuss viable alternatives to scheduling the trial date in accordance with Maryland Rule 4-271. However, we also speculate that if the Court is able to re-confirm system-generated trial dates with parties and change them if necessary early in advance, the number of trial postponements might be reduced. The Circuit Court will further investigate its approach to automatically assigning trial dates at filing given its apparent negative impact on case processing.

### ***Summary of Criminal Findings***

<sup>11</sup> Results are available upon request.

- In FY08, the percentage of criminal cases closed within the state 6-month standard further declined to 86% from 89% in FY07, below the state goal of 98%. This is the second time in 5 years when the percentage fell from 90%.
- Montgomery County Circuit Court observed an increase in the percent of over-standard criminal terminations from 11% in FY07 to 14% in FY08.
- Similar to FY06 and FY07, nearly half of all cases that closed in FY08 were Track 1 cases. Track 1 cases have a shorter case processing time and were the only cases that met the State goal of closing 98% of cases within-standard. The within-standard percent of cases in Tracks 0, 2, and 3 ranges 81 to 85%, whereas that of Track 4 was 59%.
- As also observed in FY07, about half of the terminated cases experienced at least one trial postponement in FY08. The likelihood of a case with one trial postponement resulting in an over-standard termination was 21%, compared to 14% in FY07. With 2 postponements, it was 28% (49% in FY07).
- As also found in FY07, the most-often reported reasons for trial postponements was “System-Generated Initial Trial Date Not Conformed to Counsels' Availability,” which accounted for 70% of all the trial postponements in FY08.

### ***Recommendations for Future Criminal Analyses***

- The Montgomery County Circuit Court plans to conduct a more in-depth analysis of its case processing performance by examining how well cases are performing against its DCM time standards. By examining how cases perform against the DCM time standards, the Court can determine at which stage of the case that performance begins to falter. Any early indication of performance slippage will serve as a preemptive warning for Court personnel that efforts need to be undertaken to prevent further slippage.
- Examine all postponements, not simply trial postponements, in order to accurately assess the impact of postponements on case processing time. It would be useful to further investigate the nature and type of trial postponements as well as to identify mediating factors that increase the likelihood of postponed cases terminating over-standard.
- Future evaluation of case processing performance should control for the composition of cases. For instance, track-specific analyses should be further analyzed as well as the relationship between case sub-type and case postponements on case processing performance.

### ***Recommendations for the Circuit Court Time Standards Sub-Committee***

- Certain suspensions such as interlocutory appeals do not necessarily inactivate a case. In such situations, the court can and does move forward with the case, and it may not be appropriate to exclude such time from the calculation of the case processing time. The Circuit Court Time Standard Subcommittee is requested to address this and develop guidelines as to how it should be handled by JIS and/or individual Courts.
- Challenges remain with the DNA suspension event. JIS has indicated that since Courts are not necessarily using the Data Definitions defined postponement reasons, clerks will have to essentially keep an eye out for these instances where a trial is postponed due to DNA evidence not received. The Clerks would then have to enter the suspension event directly in the Caseflow Application so that the time can be excluded. While Montgomery County Circuit Court uses the Data Definitions defined postponement reasons, there is a concern with the DNA postponement reason. In particular, the postponement reason is for forensic evidence, which is not necessarily DNA. As such, clerks and quality control personnel will (at this time) have to review every case that has this type of postponement and decide whether or not it is due to DNA. It is recommended that the

Time Standards Sub-Committee review its position related to the DNA suspension and decide how best to capture the information given the current system and procedure limitations.

- For a suspension event like competency and DNA test result, the suspension event begins with the competency evaluation order or postponement of a scheduled event due to the unavailability of DNA results and ends with the date of the next event, supposedly a competency hearing or trial, which may occur some time after the results of the competency evaluation or DNA test result is received. Essentially, the competency or DNA suspension event includes some “extra” time between receipt of the competency evaluation or DNA results and the date of the “next” Court event. In case for competency, it makes sense not to have the receipt of the evaluation be the suspension end date since the competency suspension would resume when a defendant is found to be incompetent at the hearing. If we make the receipt of the evaluation as the suspension stop, this would result in multiple suspensions of the same kind, which the application is currently unable to handle (except for FTA/bench warrant suspensions). However, the problem arises when the “next” event is not the one that we expect (e.g., a competency hearing or a trial), resulting in a shortened suspension. It is recommended that the Time Standards Sub-Committee review this issue as it may be advisable to define the “next event” in the time standards chart as the suspension stop date.
- Suspensions may occur before the time standard-defined case start date or end after the case stop date. For example, a bench warrant may be issued to bring a defendant to his/her first appearance where his/her attorney appears before the defendant is served. In the same fashion, petitions for waiver to adult court in juvenile cases and petitions for reverse waiver in criminal cases may be filed before the first appearance. Currently, such suspensions are not considered valid and no time is being taken out. However, this may need to be revisited.
- The significantly high occurrence of schedule-related trial postponements observed in FY08 could be one of the issues to be considered in an effort to reduce the number of over-standard criminal cases. As noted in FY06, when a case is postponed in order to reschedule the automatically-generated trial date pursuant to MD Rule 4-271, the Court may want to consider not counting it as a postponement for statistical purposes. It may be useful to implement guidelines such that a rescheduled trial would not count as a postponement. The Court will convene a meeting with its Assignment Office personnel to discuss possible alternate approaches to scheduling trial dates within 30-days from filing.
- Concerns have been raised about the inclusion of cases transferred in from another jurisdiction. An argument has been made that such cases should be removed from the Caseflow Assessment. The primary reason given for removal is that when the case is transferred-in we are not measuring the true performance of that case (from the perspective of the Court who “ends-up” with the case). As an example, Juvenile and Criminal cases transferred-in for supervision only should be removed from the Caseflow Assessment Application for FY2009. This was raised and agreed to for FY2008; however, no change was made in the Assessment Application.
- Judicial Council has approved the exclusion of expunged and sealed cases from the FY2008 Assessment. However, these two types of cases have not been added to the official list of cases excluded from the Assessment because the list has not been updated. It is important that UCS and Baltimore City, Montgomery County and Prince George’s County, which upload all or part of the assessment data from their own databases, share the same case exclusion list. It is requested that the Subcommittee review the current exclusion list and make modifications as appropriate.
- It appears that the assessment data suspension events that occurred before the Time Standard-defined case start date have been included in the assessment data and were incorporated in its entirety in the calculation of the case processing time, which sometimes resulted in a negative case

processing time. For example, in criminal cases, when an attorney for a defendant appears while his/her client is under a bench warrant, this would constitute a suspension event that occurred prior to the case start. As indicated elsewhere, Montgomery County Circuit Court maintains that such suspensions should be included in the calculation of the case processing time; however, only the valid portion of the suspension – from the case start to suspension stop – should be subtracted from the case time.

# Domestic Relation Case Terminations

## Fiscal Year 2008 Case Terminations

### C. Domestic Relations Case Processing Definitions and Summary

	Domestic Relations Case Time Definitions	Percent Within 12 Month (365 day) and 24 Month (730 day) Standard	Additional Montgomery County Measurements
<b>Domestic Relations Case Standards and Montgomery County Measures</b>	<p><u>Case Time Start:</u> Filing of Case.</p> <p><u>Case Time Stop:</u> Disposition, dismissal, or judgment. Judgment in limited divorce cases if the limited divorce is the only issue.</p>	<p><u>State-Set Goal:</u> 90% within 12 months 98% within 24 months</p> <p><u>Montgomery County:</u></p> <p>12 month standard: CY 2001: 92% CY 2002: 91% CY 2003: 92% FY 2005: 90% FY 2006: 91% FY 2007: 90% FY 2008*: 90%</p> <p>24 month standard: CY 2001: N/A CY 2002: 99% CY 2003: 100% FY 2005: 99% FY 2006: 100% FY 2007: 99% FY 2008*: &gt;99%</p>	<p><u>Circuit Court Filing to Service/Answer, whichever comes first:</u> CY 2001: 39 days CY 2002: 44 days CY 2003: 43 days FY 2005: 46 days FY 2006: 44 days FY 2007: 41 days FY 2008*: 39 days</p> <p><u>Average Case Processing Time:</u> CY 2001: N/A CY 2002: 187 days CY 2003: 185 days FY 2005: 173 days FY 2006: 154 days FY 2007: 157 days FY 2008*: 155 days</p>
<p>Note: Domestic Relations case time is suspended for Bankruptcy Court stay, interlocutory appeal, body attachment, military leave, and no service in child support cases after 90 days from filing, and collaborative law start.</p> <p>* FY2008 results are based on the sample.</p>			

### Overall Domestic Relations Case Terminations

In FY08, the Court processed a total of 7,673 original domestic relations (DR) case terminations, an increase of 951 cases (14%) from the FY07 level (6,722 cases). This increase is comparable to those observed in FY04-FY06 with an average of about 1,000 cases per year. Since the increase between FY06 and FY07 was much smaller (354), we feared a substantially smaller number of original terminations in FY07 might negatively impact the number of overall original terminations and the number of over-standard terminations in FY08 in light of the constantly increasing DR case filings (220-300 filings per year). However, the Court appears to have handled the increased caseload. The percentages of DR cases terminated within the 12- and 24-month standard based on the sample of 510 cases was 90% and 100%, respectively, thus meeting the state-set goal of 90% within 12 months and 98% in 24 months. Table C.1

provides the number of original Domestic Relations (DR) case terminations and the average case processing time (ACT) by case termination status between FY04 and FY08.

The overall ACT for FY08 terminations was 155 days, slightly lower than FY07 level (157 days) and equivalent to the FY06 average of 154 days. The ACT was 117 days among within-standard terminations under the 12-month Standard (118 days for FY08 and 123 days for FY06). Under the 24-month Standard, the FY08 ACT was 152 days, nearly equivalent to the FY06 and FY07 averages (151 and 150 respectively). With regard to over-standard terminations, the FY08 ACT decreased by 17 days from the FY07 average of 522 days, though still 12 days longer than the FY 06 average (493 days) under the 12-month Standard. Under the 24-month standard, the FY08 ACT among over-standard cases is 946 days, over 40 days shorter than that for the FY07 figure (988 days) but still 74 days longer than the FY06 ACT (872). Last year, we noted that the increased ACT was primarily due to a handful of terminations with extremely large clock time, including one case that was processed over the course of 5,180 days, another processed for 2,079 days, and a dozen DR case terminations that took over 1,000 days to process. For FY08, while the sample did not include any extraordinary long cases, the distribution of over-standard cases by case time (Table C.2.) indicates that a case with the longest case processing time had 1080 days to close. Compared to the FY07 figures, the FY08 mean, median and 75-100 percentiles (except for 90<sup>th</sup> percentile) are smaller, underscoring the Court's attempts to close over-extended cases.

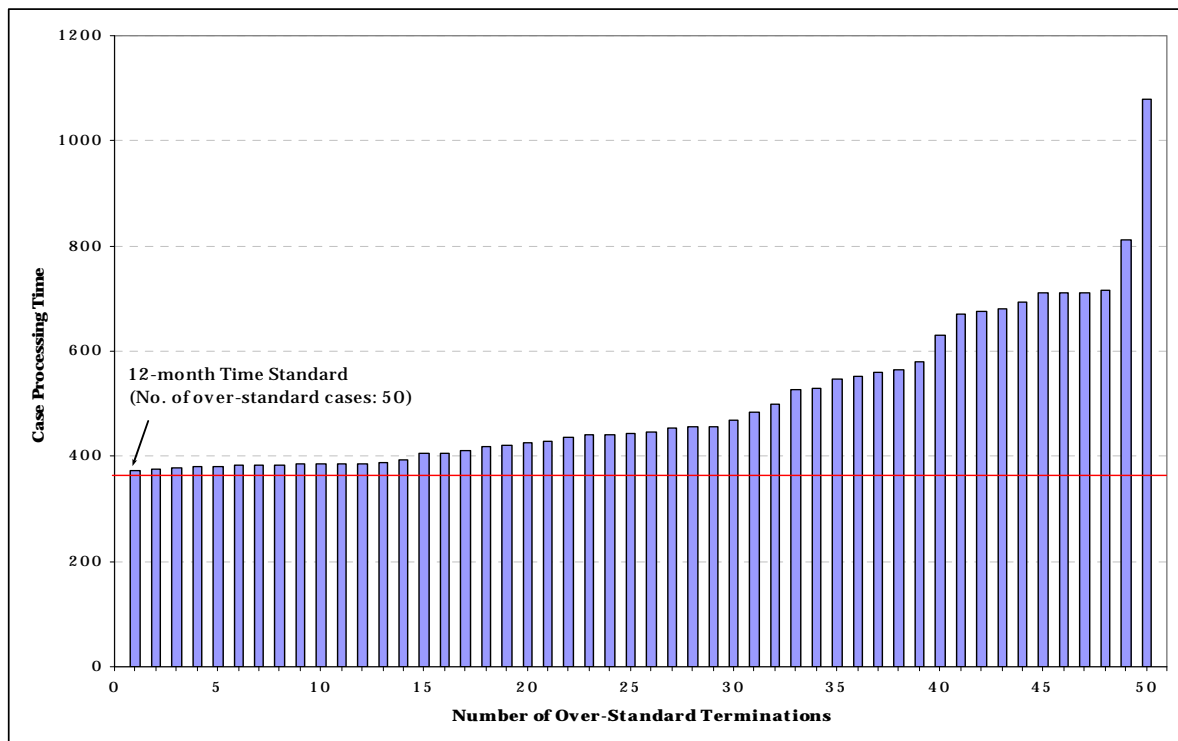
**Table C.1. Number of Domestic Relations Case Terminations FY04 through FY08**

Fiscal Year	Total Terminations		12-month Standard						24-month Standard					
			Within-Standard Terminations			Over-standard Terminations			Within-Standard Terminations			Over-standard Terminations		
	N	ACT*	N	%	ACT	N	%	ACT	N	%	ACT	N	%	ACT
FY04	4,386	129	4,047	92%	98	339	8%	499	4,362	100%	124	24	<1%	1,043
FY05	5,364	173	4,818	90%	133	546	10%	534	5,316	99%	164	48	1%	1,255
FY06	6,368	154	5,820	91%	123	548	9%	493	6,337	100%	151	27	<1%	872
FY07	6,722	157	6,066	90%	118	656	10%	522	6,666	99%	150	56	1%	988
<b>FY08**</b>	<b>(510)</b>	<b>155</b>	<b>(460)</b>	<b>90%</b>	<b>117</b>	<b>(50)</b>	<b>10%</b>	<b>505</b>	<b>(508)</b>	<b>&gt;99%</b>	<b>152</b>	<b>2</b>	<b>&lt;1%</b>	<b>946</b>

Maryland domestic relations case time standard and goal: 12 and 24 months and 90% for 12-month and 98% for 24-month within-standard terminations

\* ACT = Average Case Time, in days.

\*\* The full domestic caseload for FY08 is 7,673. The 510 cases for which performance data is provided represent a random sampling of the total FY08 caseload.



**Figure C.1 Distribution of Over-Standard Domestic Relations Cases, FY08**

**Table C.2 Distribution of Over-Standard Domestic Relations Cases, FY08**

Fiscal Year	N	Mean	Median	Percentile						
				5	10	25	75	90	95	Max
FY07	656	522	463	373	381	407	574	708	823	5,189
FY08	50	505	445	379	382	390	564	711	714	1,080

### *Case Terminations by Track*

Montgomery County's Differentiated Case Management (DCM) plan established the following 5 tracks for Domestic Relations (DR):

Track 0: Uncontested Divorce without Summons

Track 1: Uncontested Divorce with Summons

Track 2: No Physical Custody Issues and Limited Discovery

Track 3: Physical Custody Issues and/or Divorce with Moderate Discovery

Track 4: "Judge Track", reserved for cases involving extensive property holdings, complicated business valuations, significant assets held in various forms, pensions, alimony and other support issues along with custody, visitation and divorce.

No Track ("Track N"): Cases with other issue(s)

Table C.3 summarizes the number and distribution of DR cases and their average case processing time (ACT) by Track, both within- and over- the 12-month time Standard.<sup>12</sup> As observed in FY06 and FY07, the majority the FY08 terminations were from either Track 1 (31%, 36% in FY06 and 35% in FY07) or Track N (40%, 31% in both FY06 and FY07). Cases in these tracks, except for Track 2, were

<sup>12</sup> Because nearly 100% of the cases closed within the 24-month standard, the following analyses focused only on cases over the 12-month standard unless noted otherwise.



characterized with a relatively short ACT ((Track 0: 94 days (71 days in FY07), Track 1: 153 days (159 days in FY07), and Track N: 86 days (79 days in FY07)) and a high percentage of cases closed within-standard, ranging from 97% to nearly 100%. Cases in Tracks 0, 1, and N accounted for over 80% (82%, 79% in FY07) of the DR cases.

Cases in Tracks 2 and 3 accounted for 18% of the cases in the sample (20% in FY07, no Track N cases in the sample). These cases were characterized with a substantially higher ACT and much lower within-standard termination rate. For example, the overall ACT for cases in Track 3 was 386 days, 21 days over the 12-month Standard. The ACT of Track 2 and 3 cases that were closed within-standard exceeded 200 days, and the within-standard termination rate was 58% and 48%, respectively. Accordingly, it is imperative that the Court evaluate the current practice of processing cases in Tracks 2 and 3 and devise intervention measures to reduce the time used to process these cases.

**Table C.3. FY08 Domestic Relations Case Terminations by Termination Status (Within or Over the 12- and 24-month Standards) and Track**

12-month Standard		Overall Terminations		Within-Standard Terminations				Over Standard Terminations			
DCM Track	N	% of Total	ACT*	N	% of WST*	% of Track	ACT*	N	% of OST*	% of Track	ACT*
Track 0	58	11%	94	56	12%	97%	77	2	4%	3%	576
Track 1	156	31%	153	151	33%	97%	142	5	10%	3%	507
Track 2	62	12%	327	36	8%	58%	218	26	52%	42%	478
Track 3	31	6%	386	15	3%	48%	215	16	32%	52%	547
Track 4**	--	--	--	--	--	--	--	--	--	--	--
Track N	203	40%	86	202	44%	100%	85	1	2%	0%	386
Total	510	100%	155	460	100%	90%	117	50	100%	10%	505
24-month Standard											
DCM Track	N	% of Total	ACT*	N	% of WST*	% of Track	ACT*	N	% of OST*	% of Track	ACT*
Track 0	58	11%	94	58	11%	100%	94	0	0%	0%	0
Track 1	156	31%	153	156	31%	100%	153	0	0%	0%	0
Track 2	62	12%	327	60	12%	97%	307	2	100%	3%	946
Track 3	31	6%	386	31	6%	100%	386	0	0%	0%	0
Track 4**	--	--	--	--	--	--	--	--	--	--	--
Track N	203	40%	86	203	40%	100%	86	0	0%	0%	0
Total	510	100%	155	508	100%	>99%	152	2	100%	0%	946

\* ACT = Average Case Time, in days; WST = Within-Standard Terminations; OST = Over-Standard Terminations.

\*\* There were 11 track 4 cases in the 7,673 Domestic Relations case terminations for FY08. However, the sample used in this analysis did not include any.

Note: Percentages do not always add to 100% due to rounding.

### *Case Terminations by Trial Postponements*

Table C.4 compares the number, percentage, and ACT of cases according to their track, whether or not they had trial postponements, and whether or not they closed within the 12-month Standard. During FY08, 2% (3% for FY07) of the closed cases experienced at least one trial postponement. Trial postponements were found only in Tracks 2 and 3 (95% for FY07)<sup>13</sup>. Given the small numbers of cases with trial postponements, which were further grouped by the termination status, it is hard to make generalizations. However, close to 80% of over-standard terminations were without trial postponements,

<sup>13</sup> As noted above, since the sample had no Track 4 cases, no Track 4 cases with postponements were found in the analysis. In FY07 of the 4 Track 4 case terminations, 1 had trial postponements. The case also closed over the time standards whereas the other 3 cases without postponements were closed within-standard.

other factors such as pre-trial postponements might have played a significant role in extending a case's clock time.

**Table C.4.FY08 Domestic Relations Case Terminations by Trial Postponements, Termination Status (Within or Over the 12-month Standard), and Track**

<u>Terminations <b>With</b> Trial Postponements</u>										
DCM Track	Total Terminations	Overall Terminations			Within Standard Terminations			Over Standard Terminations		
		N	% of Total		N	% of Track		N	% of Track	
			Track	ACT*		Track	ACT*		Track	ACT*
Track 0	58	0	0%		0	NA	0	0	NA	0
Track 1	156	0	0%		0	NA	0	0	NA	0
Track 2	62	3	5%	377	1	33%	273	2	67%	429
Track 3	31	7	23%	449	3	43%	279	4	57%	576
Track 4**	--	--	--	--	--	--	--	--	--	--
Track N	203	0	0%		0	NA	0	0	NA	0
Total	510	10	2%	427	4	40%	278	6	60%	527
<u>Terminations <b>Without</b> Trial Postponements</u>										
DCM Track	Total Terminations	Overall Terminations			Within Standard Terminations			Over Standard Terminations		
		N	% of Total		N	% of Track		N	% of Track	
			Track	ACT*		Track	ACT*		Track	ACT*
Track 0	58	58	100%	94	56	97%	77	2	3%	576
Track 1	156	156	100%	153	151	97%	142	5	3%	507
Track 2	62	59	95%	325	35	59%	216	24	41%	482
Track 3	31	24	77%	368	12	50%	199	12	50%	538
Track 4**	--	--	--	--	--	--	--	--	--	--
Track N	203	203	100%	86	202	100%	85	1	0%	386
Total	510	500	98%	150	456	91%	116	44	9%	502

\* ACT = Average case time, in days.

\*\* There were 11 track 4 cases in the 7,673 Domestic Relations case terminations for FY08. However, the random sample selected for this analysis did not include any track 4 cases

As shown on Table C5 below, only 12% (16% for FY07) of over-standard cases were postponed. However, postponements increased the chance of a case closing over-standard. Even with one trial postponement, there was greater than a 50-50 chance that a case would be over-standard, compared to a one in 10 chance (91%) for those without trial postponements. Needless to say, having trial postponements generally resulted in a greatly extended case time across all Tracks. The ACT of postponed cases ranges from 323 to 729 days, compared to those without postponements ranging from 70 to 325 days.

As mentioned above Track 2 and Track 3 cases are the only cases that had at least one trial postponement. Since over 50% of the cases with trial postponements closed over-standard, examining the circumstance under which postponements were granted in these cases (particular among Track 3 cases) may be warranted.

**Table C.5. Postponed Domestic Relations Cases by the Number of Trial Postponements and Termination Status, FY08**

All Cases				Within-Standard Cases			Over-Standard Cases			% of Over-Standard/All Cases	
Number of Trial Postponements	%			%			%				
	N	(FY08)	(FY07)	N	(FY08)	(FY07)	N	(FY08)	(FY07)	(FY08)	(FY07)
1	6	60%	87%	3	75%	88%	3	50%	86%	50%	54%
2	3	30%	11%	1	25%	12%	2	33%	10%	67%	48%
3	1	10%	2%	0	0%	0%	1	17%	4%	100%	100%
Total	10	100%	100%	4	100%	100%	6	100%	100%	60%	54%
% Postponed		2%	3%		1%	1%		12%	16%		

Note: Percentages do not always add to 100% due to rounding.

**Table C.6. Case Terminations by Main Charge, FY08**

Main Charge	All Terminations			Over-Standard Terminations			Over-Standard/All Cases	
	2008	2008	2007	2008	2008	2007	2008	2007
	N	(%)	(%)	N	(%)	(%)		(%)
Divorce Absolute	231	45%	(52%)	40	80%	(82%)	17%	(15%)
Uniform Support	59	12%		1	2%		2%	
Paternity	48	9%	(8%)	0	0%	(1%)	0%	(2%)
Custody	36	7%	(9%)	3	6%	(5%)	8%	(6%)
Change Of Name	36	7%	(11%)	0	0%	(4%)	0%	(4%)
URESA	26	5%	(5%)	0	0%	(<1%)	0%	(1%)
Appt of Guardian	20	4%	(4%)	1	2%	(1%)	5%	(2%)
Waive Court Costs	18	4%	(4%)	0	0%	(0%)	0%	(0%)
Divorce Limited	9	2%	(2%)	4	8%	(4%)	44%	(18%)
Amend Birth Certificate	7	1%	(1%)	0	0%	(<1%)	0%	(2%)
Enroll Foreign Decree	5	1%	(1%)	0	0%	(0%)	0%	(0%)
Amend Marriage								
License	5	1%	(1%)	0	0%	(0%)	0%	(0%)
Visitation	4	1%	(1%)	0	0%	(1%)	0%	(13%)
Miscellaneous Petition	3	1%	(1%)	0	0%	(0%)	0%	(0%)
Annulment of Marriage	2	(<1%)	(<1%)	1	2%	(1%)	50%	(15%)
Support	1	(<1%)	(<1%)	0	0%	(<1%)	0%	(17%)
Other		0%	(<1%)		0%	(<1%)	NA	(8%)
Notice to Take Deposition		0%	(<1%)		0%	(0%)	NA	NA
Authorization of							NA	
Specific Transaction		0%	(<1%)		0%	(0%)		(0%)
Total	510	100%	(100%)	50	100%	(100%)	10%	(10%)

Note: Percentages do not always add to 100% due to rounding.

Table C.6 presents the number of case terminations during FY08 and FY07 by their main charges. Overall, 47% of the cases were involved in divorce (54% for FY07), either absolute (45%, 52% for FY07) or limited (2% for both FY07 and FY08). However, as also observed in FY07, among cases with over-standard terminations, the percentage of cases with divorce-related issues was much higher, 88% (86% for FY07). Given that divorce cases normally involve child custody/access issues, which normally require out-of-the-court services as well as other property/financial issues, it may be reasonable to expect some of these cases to take longer than others. Further investigation is needed to analyze these cases by the number and types of issues involved and how this relates to case processing time.

### ***Summary of Domestic Relations Findings***

- The overall number of DR case terminations continued to increase over the past 5 fiscal years. However, the overall Domestic Relations case processing performance for FY08 continued to be consistent with that of previous years. Ninety percent of the sampled DR cases closed in FY08 were within the state 12-month standard, and close to 100% were within the state 12-month standard, thus meeting the State case processing goals.
- As observed in FY06 and FY07, over one-third of all terminations were from Track 1 in FY08. Forty percent of the terminations were not tracked (Track N, 31% in FY07), followed by cases in Track 2 (12%) and Track 0 (11%). Cases in these tracks, except for Track 2, were characterized with a relatively short ACT and a high percentage of cases closed within-standard. Cases in Tracks 0, 1, and N accounted for nearly 80% of the DR cases.
- During FY08, 2% of the closed cases experienced at least one trial postponement (3% for FY07). While only 12% of the over-standard cases were postponed in FY08 (16% in FY07), postponements increased the chance of a case closing over-standard. Trial-postponed DR cases were found only among Tracks 2 and 3 in FY08 (95% for FY06 and FY07).
- Close to 50% of terminated DR case involved divorce and, among over-standard cases, 88% are cases with divorce-related issues.

### ***Recommendations for Future Domestic Relations Analyses***

- The Montgomery County Circuit Court plans to conduct a more in-depth analysis of its case processing performance by examining how well cases are performing against its DCM time standards. By examining how cases perform against the DCM time standards, the Court can determine at which stage of the case that performance begins to falter. Any early indication of performance slippage will serve as a preemptive warning for Court personnel that efforts need to be undertaken to prevent further slippage.
- Examine all postponements, not simply trial postponements, in order to accurately assess the impact of postponements on case processing time.
- Evaluate the current practice of processing cases in Tracks 2 and 3 and devise intervention measures to reduce the time used to process these cases
- Examine the performance of limited and absolute divorce cases within the content of the 365- and 730-day time standards. As noted in FY06, consider developing policies to monitor and control the length of divorce-related cases.
- Review the length of domestic relations trials that occurred among cases closed in FY2008, and how length of trial correlates with case track assignment. None of the family cases sampled for FY2008 were designated as Track 4 (note: 11 of the 7,673 family cases terminated in FY2008 were designated as Track 4), which are to have a trial length of more than 3 days. Given the small number of Track 4 cases, it may be useful for the Court to reexamine its DCM plan to assess whether such cases should be subsumed under the Track 3 designation.

### ***Recommendations for Circuit Court Time Standards Sub-Committee***

- Several questions have been raised about the appropriate application of the two time standards for domestic relations cases. It is requested that the Time Standards Sub-Committee determine the appropriate use of the 365- and 730- time standards and convey that information to the Circuit Courts.
- Certain suspensions such as interlocutory appeals do not necessarily inactivate a case. In such situations, court can and does move forward with the case, and it may not be appropriate to

exclude such time from the calculation of the case processing time. The Time Standards Subcommittee is requested to address this issue and develop guidelines as to how it should be handled.

- Cases transferred in from another jurisdiction should not be included in the Caseflow Assessment. The primary reason for this exclusion is that including such cases would contaminate the true case processing performance of the Court in question because part of the case processing of the cases includes other jurisdiction's case processing efforts. The filing date being used as the case start is associated with the original court. So, the current performance measures are associated with the Court where the case "ended-up" even though a portion of the case time was under the control of the original court. For Civil and possibly Domestic Cases, transferred-in cases should be removed from the Caseflow Assessment by JIS. If this is not feasible, removal of such cases should be allowed for jurisdictions whenever they find one in their data. One possible alternative to removing these cases would be to measure the case time from the time when they were transferred in rather than the time when they were initially opened in other jurisdictions. However, this approach may underestimate the receiving court's performance because the case processing may be truncated in the receiving court. It is requested that the Time Standards Sub-Committee address this issue at its next meeting and advise as to how best to address these cases.
- The Assessment data extract program is pulling the last disposition in Domestic Relations Cases regardless when the disposition occurred, even after the case stop date. For example if a child support case was reopened after its original case closure and the disposition was dismissed versus Decree Order (original one), the data field in the Assessment is showing Dismissed which was the reopened disposition.

# Juvenile Delinquency Case Terminations

## Fiscal Year 2008 Case Terminations

### D. Juvenile Delinquency Case Processing Definitions and Summary

	Juvenile Case Time Definitions	Percent Within 3 Month (90 day) Standard	Additional Montgomery County Measurements
<b>Juvenile Delinquency Case Standards and Montgomery County Measures</b>			<u>Original Offense Date to Filing:</u> CY 2001: N/A CY 2002: 128 days CY 2003: 127 days FY 2005: 109 days FY 2006: 101 days FY 2007: 112 days FY 2008*: 116 days
	<u>Case Time Start:</u> First appearance of respondent or entry of appearance by counsel.  <u>Case Time Stop:</u> Disposition (jurisdiction waived, dismissal, stet, probation, facts sustained, facts not sustained, NP, NCR finding).	<u>State-Set Goal:</u> 98%  <u>Montgomery County:</u> CY 2001: N/A CY 2002: 99% CY 2003: 98% FY 2005: 99% FY 2006: 99% FY 2007: 98% FY 2008*: 95%	<u>Filing to First Appearance:</u> CY 2001: N/A CY 2002: 28 days CY 2003: 28 days FY 2005: 24 days FY 2006: 21 days FY 2007: 22 days FY 2008*: 25 days  <u>Filing to Case Stop:</u> CY 2001: N/A CY 2002: 60 days CY 2003: 83 days FY 2005: 70 days FY 2006: 75 days FY 2007: 77 days FY 2008*: 69 days  <u>Average Case Processing Time:</u> CY 2001: N/A CY 2002: N/A CY 2003: 43 days FY 2005: 40 days FY 2006: 40 days FY 2007: 41 days FY 2008*: 46 days
Note: Juvenile Delinquency case time is suspended for bench warrant, failure to appear, mistrial, NCR evaluation, petition for reverse waiver, competency evaluation, pre-disposition investigation report order, pre-disposition treatment program, interlocutory appeal, and military leave. * FY2008 results are based on the sample.			

## Overall Juvenile Delinquency Case Terminations

In Fiscal Year 2008 (FY08), a total of 1,492 juvenile delinquency cases were closed by the Montgomery County Circuit Court, slightly greater than 1,485 cases terminated in FY07<sup>14</sup>. The overall average case processing time (ACT) for juvenile delinquency cases closed in the Circuit Court based on the sample of 510 cases was 46 days, a 5 day increase from the FY07 average of 41 days. The ACT for juvenile delinquency cases declined from 43 days to 40 days between FY04 and FY05 and remained stable between FY05 and FY07. However, the FY08 figure is higher than it has been since FY04.

The State-defined time standard for juvenile delinquency cases is 90 days, and the processing goal is to close 98% of cases within the time standard. Between FY04 and FY07, 98-99% of juvenile delinquency cases closed within the 90 day standard. However, for FY08, the within-standard percentage fell to 95%, below the state goal. The FY08 ACT among within-standard cases rose to 42 days compared to 40 days in FY07 and 39 days in FY04-06. Twenty-six cases constituting 5% of the sample terminated closed over-standard with the ACT of 127 days, 8 days longer than the FY07 average (119 days) though still substantially lower than that obtained in FY04 (198 days) and FY06 (143 days). The overall trend seems to suggest that the juvenile case processing performance, which has been fairly constant between FY04 and FY07, may have slightly declined in FY08.

**Table D.1. Number of Juvenile Delinquency Case Terminations FY04 through FY08**

Fiscal Year	Terminations		Within-Standard Terminations 3-month (90 days) Standard			Over-Standard Terminations 3-month (90 days) Standard		
	N	ACT*	N	% of Total	ACT*	N	% of Total	ACT*
FY04	1,521	43	1,490	98%	39	31	2%	198
FY05	1,431	40	1,416	99%	39	15	1%	122
FY06	1,651	40	1,634	99%	39	17	1%	143
FY07	1,485	41	1,455	98%	40	30	2%	119
<b>FY08**</b>	<b>(510)</b>	<b>46</b>	<b>(484)</b>	<b>95%</b>	<b>42</b>	<b>26</b>	<b>5%</b>	<b>127</b>

Maryland juvenile case time standard and goal: 90 days and 98% within-standard terminations

\* ACT = Average Case Time, in days.

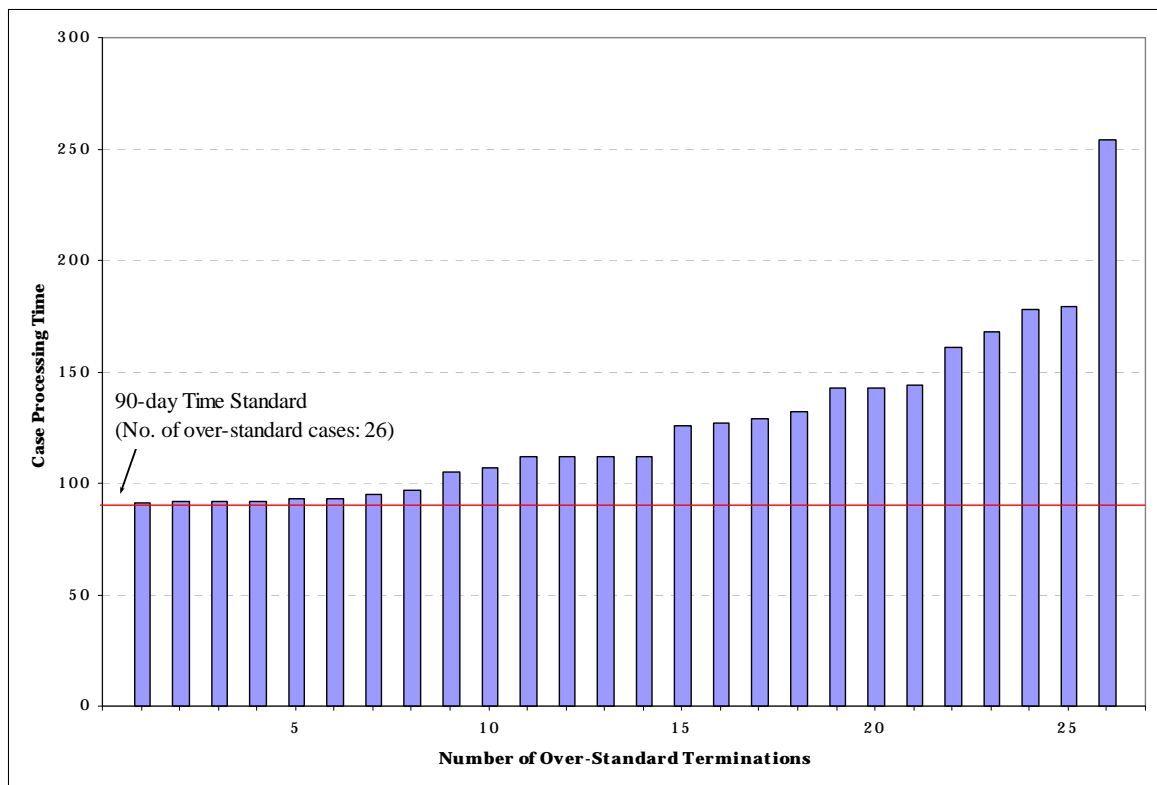
\*\* The full juvenile caseload for FY08 is 1,492. The 510 cases for which performance data is provided represent a random sampling of the total FY08 caseload.

The decline in case processing performance in juvenile cases is also apparent from the distribution of over-standard cases displayed in Table D.2. Both the mean and median for FY08 are greater than those for FY07. In addition, 25<sup>th</sup> through 100<sup>th</sup> percentiles for FY08 are also greater than those for FY07. Though the 100<sup>th</sup> percentile, or the maximum case processing time, for FY08 is 254 days, compared to 179 days for FY07, as shown on Figure D.1, this case is an outlier.

**Table D.2 Distribution of Over-Standard Juvenile Cases, FY08**

Year	N	Mean	Median	Percentile						
				5	10	25	75	90	95	Max
FY07	30	119	107	92	94	95	134	171	178	179
FY08	26	127	112	92	92	96	143	173	179	254

<sup>14</sup> During data verification, it was found that 41 juvenile delinquency cases (37 placed on the stet docket, 3 dismissed, and 1 found delinquent) were not included in the case terminations originally identified for FY08. The Court plans to investigate why these cases were not identified as eligible for inclusion in the FY08 caseload.



**Figure D.1 Distribution of Over-Standard Juvenile Cases, FY08**

#### *Case Terminations by Track*

Currently, the Montgomery County Circuit Court's Juvenile Differentiated Case Management (DCM) Plan categorizes juvenile delinquency cases into the following 4 Tracks:

Track 1: Delinquent Detention/Shelter Care

Track 2: Delinquent Non-Detention

Track 5: Complex Delinquent Detention/Shelter Care

Track 6: Complex Delinquent Non-Detention

Table D.3 provides the number of terminated cases by termination status (within- vs. over-standard) and the DCM Track. Similar to FY06 and FY07, in FY08 85% of the juvenile delinquency cases were from Track 2, which are non-detained cases. The remaining 15% were Track 1. Thus, simple delinquent cases in these 2 tracks accounted for 100% of the sample of the juvenile delinquency cases terminated during FY08 (99% in FY07). On average, and in accordance with the time standard guidelines built into the DCM plan, non-detention cases (Track 2) had a longer average case processing time (46 days) than those with detention/shelter-care (Track 1: 31 days). In fact, the percent of cases closed within standard for Track 1 is 99%, exceeding the state goal of 98%, whereas that of Track 2 cases was 94%.

Of the over-standard juvenile delinquency cases, most (96%, 87% for FY07) were Track 2 cases, and because the case processing performance of Track 2 cases declined, the overall performance also declined. In contrast, for FY07, while cases from Tracks 1 and 2 made up all of the over-standard terminations, no more than 2% of cases in each of these Tracks were over-standard (i.e., most Track 1 and 2 cases were within-standard). It is imperative that the Court investigate what occurred to push a percentage of Track 2 cases over-standard. In addition, as shown in Figure D.1, at least 10% of the over-standard cases were a few days past the 90-day standard and 25% are 8 days over the standard.



Investigating these cases and devising plans to close cases similar to these within-standard may be a viable option to improve the Court's juvenile case processing performance.

**Table D.3. FY08 Juvenile Delinquency Case Terminations by Termination Status (Within or Over the 3-month Standard) and Track**

DCM Track	Overall Terminations			Within-Standard Terminations				Over-Standard Terminations			
	N	% of Total	ACT*	N	% of WST*	% of Total	ACT*	N	% of OST*	% of Track	ACT*
Track 1	77	15%	31	76	16%	99%	30	1	4%	1%	132
Track 2	433	85%	49	408	84%	94%	44	25	96%	6%	126
Track 5	--	--	--	--	--	--	--	--	--	--	--
Track 6	--	--	--	--	--	--	--	--	--	--	--
Total	510	100%	46	484	100%	95%	42	26	100%	5%	127

\* ACT = Average Case Time, in days; WST = Within-Standard Terminations; OST = Over-Standard Terminations.

Note: Percentages do not always add to 100% due to rounding.

### *Case Terminations by Trial Postponements*

As shown in Table D.4, overall 26% of cases sampled from the juvenile delinquency cases terminated during FY08 had one or more trial postponements, most of which are Track 2 cases. Interestingly, even with trial postponements, 91% of these cases were closed within the 90-day time standard; overall 9% of the cases with trial postponements were closed over-standard, again most of which are Track 2 cases, compared to 96% of cases that closed within-standard without trial postponements.

**Table D.4. FY08 Juvenile Delinquency Case Terminations by Trial Postponements, Termination Status (Within or Over the 3-month Standard), and Track**

<u>With Trial Postponements</u>										
DCM Track	Total Terminations	Overall Terminations			Within-Standard Terminations			Over-Standard Terminations		
		N	% of Total Track	ACT*	N	% of Track	ACT*	N	% of Track	ACT*
Track 1	77	20	26%	44	19	95%	40	1	5%	132
Track 2	433	115	27%	64	104	90%	57	11	10%	132
Track 5	--	--	--	--	--	--	--	--	--	--
Track 6	--	--	--	--	--	--	--	--	--	--
Total	510	135	26%	61	123	91%	53	12	9%	132
<u>Without Trial Postponements</u>										
DCM Track	Total Terminations	Overall Terminations			Within-Standard Terminations			Over-Standard Terminations		
		N	% of Total Track	ACT*	N	% of Track	ACT*	N	% of Track	ACT*
Track 1	77	57	74%	26	57	100%	26	0	0%	0
Track 2	433	318	73%	43	304	96%	40	14	4%	122
Track 5	--	--	--	--	--	--	--	--	--	--
Track 6	--	--	--	--	--	--	--	--	--	--
Total	510	375	74%	41	361	96%	37	14	4%	122

\* ACT = Average case time, in days.

Note: Percentages do not always add to 100% due to rounding.

Table D.5 presents the distribution of juvenile delinquency cases by the number of trial postponements and termination status for F07 and F08. First, the overall percent of cases with trial postponements slightly declined from 28% in FY07 to 26% in FY08. At the same time, the Court also

reduced the number of cases with multiple trial postponements, and this resulted in the 14 percentage-point increase in the percent of postpone cases with a single trial postponements. This in turn resulted in the equally large increase in the percent of cases with a single trial postponement among within- and over-standard cases. One of the ramifications of this reduction in trial postponements (presumably from more strict adherence to the Juvenile DCM plan) appears to be an increase in the percent of over-standard cases among those with multiple trial postponements. Thus, compared to 17% for FY07, 40% of the cases with 2 trial postponements were over-standard for FY08. Among cases with 3 trial postponements, the percentage was 100% for FY08 whereas it was 14% for FY07. It appears that cases with certain characteristics are inevitably postponed and closed over-standard. While it may not be possible to prevent these cases from having multiple trial postponements, examining such cases and identifying factors that may have resulted in prolonged case processing time may be the first step in improving performance.

**Table D.5. Postponed Juvenile Delinquency Cases by the Number of Trial Postponements and Termination Status, FY08**

All Cases		Within-Standard Cases			Over-Standard Cases			% of Over-Standard/All Cases			
Number of Postponements	N	%		N	%		N	%		(FY08)	(FY07)
1	129	96%	82%	120	98%	89%	9	75%	58%	7%	4%
2	5	4%	14%	3	2%	9%	2	17%	35%	40%	17%
3	1	1%	3%	0	0%	2%	1	8%	8%	100%	14%
Total	135	100%	100%	123	100%	100%	12	100%	100%	7%	6%
% Postponed		26%	28%		25%	26%		46%	87%		

Note: Percentages do not always add to 100% due to rounding.

### ***Summary of Juvenile Delinquency Findings***

- The Court's juvenile delinquency case processing performance declined to 95% in FY08 from 98% in FY07, not meeting the state 98% goal for the first time since reporting case processing performance in FY2004.
- The overall ACT was 46 days, a 5 day increase from 41 days for FY07. The within-standard ACT was 42 days (40 days for FY07) and the over-standard ACT was 127, compared to 119 days for FY07.
- Eighty-five percent of the cases terminated in FY08 were from Track 2 and the remaining 15% were from Track 1. Track 2 cases represented 96% of the over-standard cases.
- While over a quarter of the juvenile delinquency cases experienced trial postponements, 91% of them closed within-standard. Of the 26 over-standard cases, 46% experienced trial postponements.

### ***Recommendations for Future Juvenile Delinquency Analyses***

- It may be interesting to examine how the impact of a reduction in the number of juvenile judges from 4 to 3 in July 2007 impacted case processing performance. Further, a judicial rotation in juvenile occurred during FY2008, which may also have impacted case processing performance. Since judges play an important role in the efficient processing of cases, it may be important to examine which judiciary appointment changes most critically impacted the case processing performance.
- Examine all postponements, not simply trial postponements, in order to accurately assess the impact of postponements on case processing time. Identify why the average case processing time among cases without trial postponements is longer than among those cases with trial postponements.

- Identify causes of postponements in Tracks 1 and 2 and develop strategies to further reduce the number of over-standard cases.
- Pursue Track-specific analyses by other variables such as case sub-type and postponement reason to identify profiles of cases that are more likely to result in over-standard terminations.
- Review the quality control process for juvenile cases as well as identify and implement any necessary changes.
- Examine the over-standard terminations to determine why their average case processing time is so much longer than that for within-standard terminations.
- Examine the costs and benefits associated with within- and over-standard case processing times.
- Additional analyses may be useful to explore what occurred in FY08 to push a percentage of Track 2 cases over-standard.
- The Montgomery County Circuit Court plans to conduct a more in-depth analysis of its case processing performance by examining how well cases are performing against its DCM time standards by judge. By examining how cases perform against the DCM time standards, the Court can determine at which stage of the case that performance begins to falter. Any early indication of performance slippage will serve as a preemptive warning for Court personnel that efforts need to be undertaken to prevent further slippage.

#### ***Recommendations for the Circuit Court Time Standards Sub-Committee***

- Since the time standard-defined case start date for juvenile cases is the first appearance of respondent or his/her counsel, suspensions may occur before the case start date. It is also likely that a suspension may end after the case stop date. For example, a bench warrant may be issued to bring a respondent to his/her first appearance where his/her attorney appears before the respondent is served. In the same fashion, petitions for waiver to adult court in juvenile cases and petitions for reverse waiver in criminal cases may be filed before the first appearance. Currently, such suspensions are not considered valid and no time is being taken out. However, the treatment of suspensions under unusual (but not uncommon situations) have not been addressed, and it is requested that the Time Standards Sub-Committee examine these suspensions.
- Courts need guidance determining if events such as certain treatment programs (e.g., a pre-disposition treatment program (a suspension event) vs. a pre-disposition treatment supervision) can be considered suspensions for time standards purposes. It is requested that the Subcommittee develop criteria to be used by clerks to help them assess whether a program being ordered is a pre-disposition treatment program. Once developed, this criteria will be made available to jurisdictions and appropriate court personnel.
- For the most part, it appears current definitions of the suspension events cover most of the situations that courts encounter. However, no guidelines are provided for jurisdictions to handle unusual situations. For example, a question was raised as to how jurisdictions should handle a petition of waiver to an adult court or reverse waiver to a juvenile court when the petition was subsequently withdrawn or dismissed. It is recommended that the Standards provide some flexibility for jurisdictions in interpretations of unusual circumstances. It is also requested that jurisdictions report such incidents in their jurisdiction-specific reports and that the subcommittee address such issues as deemed appropriate and transmit its resolutions to jurisdictions for dissemination.
- Currently, juvenile cases transferred in from other jurisdictions for supervision are excluded. However, as discussed above, we argue that any juvenile cases transferred in from other jurisdiction should be excluded from the Caseload Assessment. The primary reason given for this exclusion is that when the case is transferred-in we are not measuring the true performance of that case (from the perspective of the Court who “ends-up” with the case). One alternative to removing these cases would be to measure the case time from the time when they were transferred

in rather than the time when they were initially opened in other jurisdictions though inclusion of such truncated cases may result in underestimating of the court's case processing performance. It is recommended that the Time Standards Sub-Committee review this issue and provide direction to the jurisdictions. We also indicate that aforementioned provision of excluding juvenile cases transferred-in for supervision from the Caseflow Assessment Application was not implemented for FY08. We request that JIS make necessary modifications to the data extraction program not to include such cases in the assessment data for FY09.

## Child In Need of Assistance (CINA) Fiscal Year 2008 Case Terminations

**Table E.1. CINA Case Processing Definitions and Summary**

	CINA Case Time Definitions	Within-Standard Percentage	Additional Montgomery County Measurements
<b>CINA Shelter</b>	<u>Case Time Start:</u> Shelter Care Hearing.  <u>Case Time Stop:</u> Adjudication.	<u>State-Set Goal:</u> 100% within 30 days  <u>Montgomery County:</u> FY 2005: 71% FY 2006: 70% FY 2007: 60% FY2008: 80%	<u>Average Case Processing Time:</u> FY 2005: 30 days FY 2006: 30 days FY 2007: 35 days FY2008: 27 days
<b>CINA Non-Shelter</b>	<u>Case Time Start:</u> Service of CINA Petition.  <u>Case Time Stop:</u> Adjudication.	<u>State-Set Goal:</u> 100% within 60 days  <u>Montgomery County:</u> FY 2005: 97% FY 2006: 76% FY 2007: 88% FY2008: 90%	<u>Average Case Processing Time:</u> FY 2005: 34 days FY 2006: 52 days FY 2007: 44 days FY2008: 43 days
Note: CINA Shelter and Non-Shelter case processing time is suspended only for military leave.			

### *Overall CINA Shelter/Non-Shelter Case Terminations*

A total of 246 Child In Need of Assistance (CINA) cases had original closures<sup>15</sup> in Montgomery County Circuit Court in Fiscal Year 2008 (FY08) (173 Shelter and 73 Non-Shelter). Seventeen fewer CINA cases had original closures in FY08 compared to FY07 (246 and 263, respectively). The State-defined time standard for CINA Shelter cases is 30 days and 60 days for CINA Non-Shelter cases. The overall average case processing time (ACT) for CINA Shelter cases was slightly under the 30-day standard at 27 days, and the overall ACT for Non-Shelter cases was under the 60 day standard at 43 days. As shown in Table E.1, the ACT for CINA Shelter cases for FY08 was lower (27 days) than that for FY07 (35 days). Similarly, the ACT for CINA Non-Shelter cases was slightly lower (43 days) than for the previous fiscal year (44 days).

The State goal for the percentage of CINA Shelter and Non-Shelter cases closed within-standard is 100%. Eighty percent of the CINA Shelter cases (N = 139) closed within the 30 day standard in FY08, with an ACT of 21 days (see Table E.1). There was a 20 percentage-point improvement in within-standard performance between FY08 and FY07 (80% versus 60%, respectively). Having fewer CINA Shelter cases to process in FY08 as compared to FY07 (173 and 215, respectively) may have played a role

<sup>15</sup> For the purposes of this report, "closure" in CINA cases represents the case time stop as defined by the Maryland Judiciary for the sole purpose of the Maryland Caseload Assessment. As such, case time stop (i.e., closure) is identified as adjudication for CINA cases.

in the improved performance of CINA Shelter. While there was a slight increase in the number of within-standard CINA cases processed since FY07 (7%, see Table E.3), there was a marked decrease in the number of over-standard CINA cases (60%, see Table E.3). As shown in Table E.1, the percentage of over-standard CINA Shelter cases was markedly lower in FY08 compared to FY07 (20% and 40%, respectively), and the ACT decreased slightly by 8 days (52 and 60 days, respectively).

**Table E.1. Number of CINA Shelter Case Terminations FY05 through FY08**

Fiscal Year	Terminations		Within-Standard Terminations (30-day Standard)			Over-Standard Terminations (30-day Standard)		
	N	ACT*	N	% of Total	ACT*	N	% of Total	ACT*
FY05	258	30	182	71%	20	76	29%	55
FY06	192	30	135	70%	19	57	30%	57
FY07	215	35	130	60%	19	85	40%	60
<b>FY08</b>	<b>173</b>	<b>27</b>	<b>139</b>	<b>80%</b>	<b>21</b>	<b>34</b>	<b>20%</b>	<b>52</b>

\* ACT = Average Case Time, in days.

With regard to CINA Non-Shelter, a slightly higher percentage of cases closed within the 60 day standard in FY08 as compared to FY07 (90%, N = 66 and 88%, N = 42, respectively). The ACT for within-standard CINA Non-Shelter cases was also slightly lower in FY08 than that for FY07 (37 versus 39 days, respectively). A lower percentage of CINA Non-Shelter cases closed over-standard in FY08 as compared to that witnessed for FY07 (10% and 13%, respectively). While there were slightly fewer over-standard CINA Non-Shelter cases in FY08 as compared to FY07, the ACT was markedly higher between the two fiscal years (105 days in FY08 compared to 76 days in FY07). In fact, the change in the over-standard ACT among CINA Non-Shelter cases represents a 38% increase in clock time between FY07 and FY08 (see Table E.3).

To examine the marked increase in the over-standard ACT for CINA Non-Shelter cases between FY07 and FY08, it is important to look at the distribution of over-standard clock times. In FY07, there were a total of six over-standard CINA Non-Shelter cases whereas in FY08 there were a total of seven such cases. The distribution of over-standard clock times for FY07 ranged from a low of 66 days representing 1 case to a high of 81 days for 2 cases. The six over-standard CINA Non-Shelter clock times were as follows: 66 (1 case), 76 (1 case), 77 (2 cases), and 81 (2 cases) days. In contrast, the range of over-standard clock times for FY08 was between 69 days and 113 days. One over-standard CINA Non-Shelter case had a clock time of 69 days, while the remaining six over-standard cases had clock times that were at least 42 days over the 60-day time standard. One case had a clock time of 102 days.<sup>16</sup> In reviewing the Court's case files, the reason for this case closing over standard is due to the extraordinary cause postponement that occurred on November 28, 2007 resulting in the Adjudicatory Hearing being delayed by 48 days. The extraordinary cause postponement was due to reports and evaluations not being completed. It is important to note that this particular case had a total of two postponements; however, if the Adjudicatory Hearing was held on November 27, 2007 following the first postponement the case would have still closed within-standard. It was the second extraordinary cause postponement that prohibited the closing of this case within standard.

The other five (severely) over-standard CINA Non-Shelter cases were all related (i.e., children from the same family) and had a clock time of 113 days.<sup>17</sup> In reviewing these cases in more detail through

<sup>16</sup> The case number associated with the referenced CINA Non-Shelter case is 06-I-07-000220.

<sup>17</sup> The case numbers associated with the five referenced CINA Non-Shelters cases are: 06-I-07-000168, 06-I-07-000169, 06-I-07-000170, 06-I-07-000171, and 06-I-07-000172.

the Court's data system, the preliminary inquiry hearing was held on August 6, 2007 and the Adjudication hearing was postponed twice. The two postponements were the result of extraordinary cause due to reports and evaluations not completed, and the judge needing to recuse himself from the case. The granting of the first extraordinary cause postponement resulted in the case being outside the 60 day time standard. The granting of the second extraordinary cause postponement further exacerbated the case processing time. The amount of time associated with the two extraordinary cause postponements totaled 54 days.

**Table E.2. Number of CINA Non-Shelter Case Terminations FY05 through FY08**

Fiscal Year	Terminations		Within-Standard Terminations (60-day Standard)			Over-Standard Terminations (60-day Standard)		
	N	ACT*	N	% of Total	ACT*	N	% of Total	ACT*
FY05	61	34	59	97%	33	2	3%	64
FY06	51	52	39	77%	41	12	24%	87
FY07	48	44	42	88%	39	6	13%	76
<b>FY08</b>	<b>73</b>	<b>43</b>	<b>66</b>	<b>90%</b>	<b>37</b>	<b>7</b>	<b>10%</b>	<b>105</b>

\* ACT = Average Case Time, in days.

The overall ACT for CINA Shelter terminations decreased to below the 30 day standard, for the first time since measuring CINA Shelter performance via the case time standards in FY05. In FY05 and FY06, the total ACT for CINA Shelter terminations was at standard whereas in FY07 it was slightly above standard at 35 days. As shown in Table E.3, there has been minimal (if any) change in the ACT for within-standard CINA Shelter cases since FY05. Unlike previous fiscal years, which witnessed a slight, continual increase in the ACT for over-standard CINA Shelter cases, between FY07 and FY08 that patterned reversed revealing a decrease of 13% in the ACT for these cases. The (slight) decrease in the total ACT for CINA Shelter cases in FY08 is likely due to the marked increase in the percentage of CINA Shelter cases that closed within-standard and the decrease in the percentage of over-standard cases and the associated reduction in the ACT for such cases.

The processing performance for CINA Non-Shelter cases has also improved between FY07 and FY08 although not as markedly as for CINA Shelter cases. The overall ACT for CINA Non-Shelter cases witnessed a 15% reduction between FY06 and FY07, which was noticeably greater than the 2% reduction in overall ACT experienced between FY07 and FY08 (see Table E.3). There was a slight increase of 17% in the number of over-standard CINA Non-Shelter cases between FY07 and FY08; however, there was a 38% increase in the over-standard ACT during this time period and a 64% increase in the over-standard ACT since FY05. As discussed above, the marked increase in the over-standard ACT was primarily due to the granting of postponements for extraordinary cause related to reports and evaluations not being complete and a judge needing to recuse himself from the case. Despite slight improvements in the within-standard ACT for CINA Non-Shelter cases between FY07 and FY08, it is important to note that case processing performance has yet to achieve the performance level reached in FY05. The slight improvement in overall ACT between FY07 and FY08 for CINA Non-Shelter cases was likely due to the substantial percentage increase in the number of within-standard CINA Non-Shelter cases (57%), as well as the 5% reduction in the ACT associated with those within-standard cases.

**Table E.3. Number of CINA Case Terminations FY05 to FY08**

	Total Terminations		Change In Within-Standard Terminations		Change in Over-Standard Terminations	
	N	ACT*	N	ACT	N	ACT
<b>CINA Shelter (30-day Standard)</b>						
FY05-FY06	-66	0	-47	-1	-19	2
Change	(-26%)	(0%)	(-26%)	(-5%)	(-25%)	(4%)
FY06-FY07	23	5	-5	0	28	3
Change	(12%)	(17%)	(-4%)	(0%)	(49%)	(5%)
FY07-FY08	-42	-8	9	2	-51	-8
Change	(-19%)	(-23%)	(7%)	(10%)	(-60%)	(-13%)
<b>FY05-FY08</b>	<b>-85</b>	<b>-3</b>	<b>-43</b>	<b>1</b>	<b>-42</b>	<b>-3</b>
<b>Change</b>	<b>(-33%)</b>	<b>(-10%)</b>	<b>(-24%)</b>	<b>(5%)</b>	<b>(-55%)</b>	<b>(-5%)</b>
<b>CINA Non-Shelter (60-day Standard)</b>						
FY05-FY06	-10	18	-20	8	10	23
Change	(-16%)	(53%)	(-33%)	(24%)	(500%)	(36%)
FY06-FY07	-3	-8	7	-2	-6	-11
Change	(-6%)	(-15%)	(18%)	(-5%)	(-50%)	(-13%)
FY07-FY08	25	-1	24	-2	1	29
Change	(52%)	(-2%)	(57%)	(-5%)	(17%)	(38%)
<b>FY05-FY08</b>	<b>12</b>	<b>9</b>	<b>7</b>	<b>4</b>	<b>5</b>	<b>41</b>
<b>Change</b>	<b>(20%)</b>	<b>(26%)</b>	<b>(12%)</b>	<b>(12%)</b>	<b>(250%)</b>	<b>(64%)</b>

\* ACT = Average Case Time, in days.

Unlike previous fiscal years, the current within-standard percentage for CINA Shelter (80%) and Non-Shelter (90%) cases is approaching the state-defined performance goal of 100%. The increase of twenty percentage points in the within-standard percentage between FY07 and FY08 is commendable. As will be discussed below, there was a 20 percentage point reduction in the percentage of trial postponements among CINA Shelter cases, which appears to have attributed to the improvement in performance.

Table E.4 and Figure E.1 describe the case processing times of the 34 CINA Shelter cases that closed over-standard in FY08. Table E.4 compares the distribution of these cases with that of 85 over-standard cases observed in FY07. The comparison clearly indicates that the Court's CINA-Shelter case processing performance improved between the two fiscal years. For FY08, the over-standard ACT for CINA Shelter cases ranged from 31 to 83 days (33 to 171 days for FY07). The mean and median for CINA Shelter cases were 52 days, compared to 60 and 56 days, respectively for FY07. Twenty-five percent of the over-standard CINA Shelter cases closed within two weeks over-standard (N = 9) and almost three-fourths closed within a month over-standard (N = 25). Ninety-five percent of CINA Shelter cases closed a little over a month over-standard (N = 33).

As discussed in more detail above, there were a total of seven CINA Non-Shelter cases that closed over-standard in FY08. All except one over-standard, CINA Non-Shelter case closed more than five weeks over the 60 day time standard. Only four CINA Shelter cases closed less than a week over the 30 day time standard. If those four over-standard CINA Shelter cases closed within-standard, the percentage would have improved from 80% to 83%. A slight improvement would also have been experienced in the performance of CINA Non-Shelter cases if even one of the seven over-standard cases closed within-standard. Specifically, if the 69 day CINA Non-Shelter case closed within-standard the percentage would have improved by two percentage points (90% versus 92%). So, while relatively small improvements in case processing may be able to bring some of these over-standard cases to closure within-standard, to

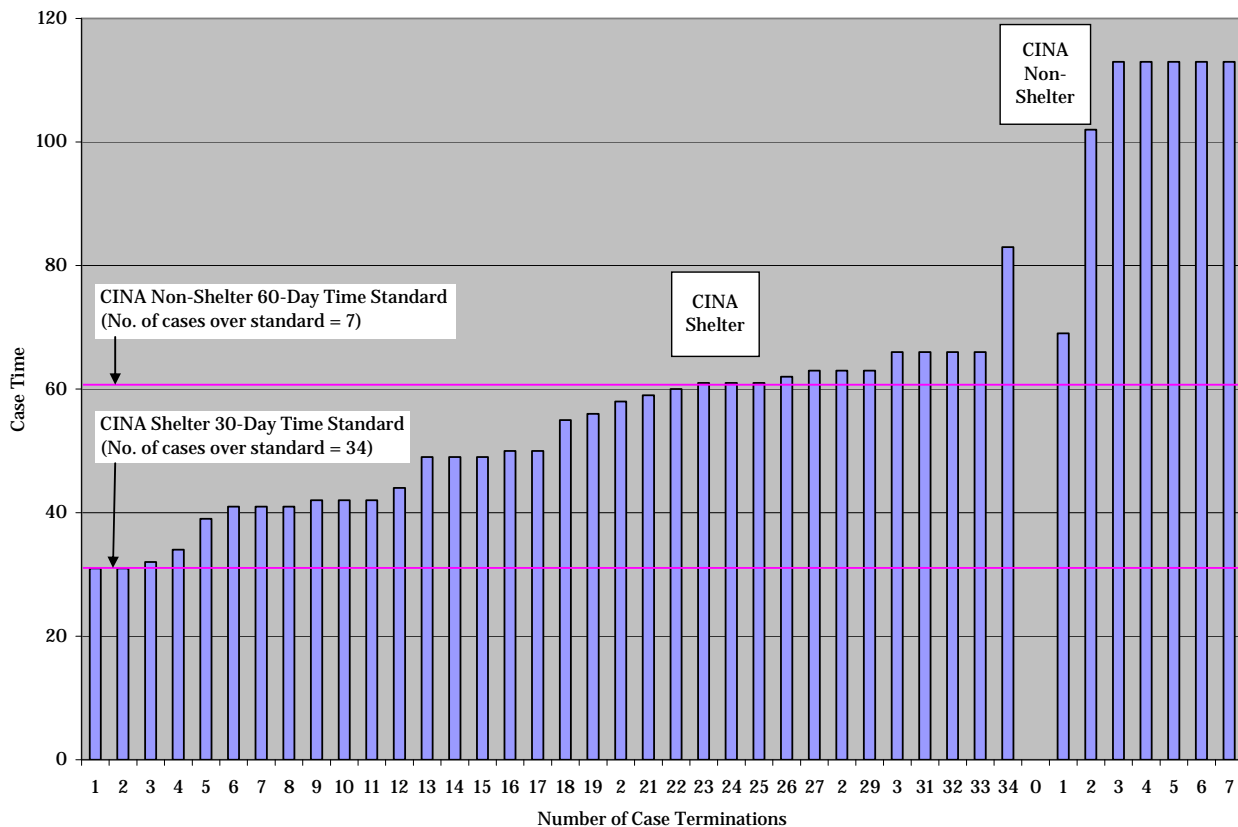


achieve 100% compliance with the state time standards, more extensive modifications in either the state time standards or the current case processing procedure may need to occur.

**Table E.4 Distribution of Over-Standard CINA Shelter Cases by Clock Time and Track, FY08\***

Fiscal Year	N	(% OST)	Mean	Median	Percentile						
					5	10	25	75	90	95	Max
FY07	85	(40%)	60	56	37	40	45	62	80	129	171
FY08	34	(20%)	52	52	31	33	42	62	66	70	83

\*Given the small number of over-standard CINA Non-Shelter cases (N = 7), the percentile analysis was not performed. However, the distribution of over-standard CINA Non-Shelter cases is displayed in Figure E.1.



**Figure E.1. CINA Shelter and CINA Non-Shelter Terminations that are over-standard, FY08**

#### *Case Terminations by Track*

Montgomery County's Differentiated Case Management (DCM) plan established two tracks each for CINA Shelter (Tracks 3 and 7) and Non-Shelter (Tracks 4 and 8) cases. For both CINA Shelter and Non-Shelter cases, there are standard tracks (Tracks 3 and 4) and complex tracks (Tracks 7 and 8). Unlike standard cases, complex cases are designated as such because they require more Court resources and time for the proper resolution.

As shown in Table E.5, on average, the over-standard CINA Shelter cases took over 2 times longer to close than the within-standard cases (52 vs. 21 days, respectively). For CINA Non-Shelter cases (see Table E.6), the average case time for the over-standard cases was 105 days, almost thrice the length of the within-standard cases (37 days). For over-standard CINA Shelter Track 7 cases, the average case processing time was 53 days and for the over-standard CINA Non-Shelter Track 8 cases, the average case processing time was 111 days. Unlike FY07, Tables E.5 and E.6 reveal that in FY08 complex CINA

Shelter and Non-Shelter cases comprised the majority of the over-standard terminations (91% and 86%, respectively).

**Table E.5. FY08 CINA Shelter Case Terminations by Termination Status (Within or Over the 30-day Standard) and Track**

DCM Track	Overall Terminations			Within-Standard Terminations				Over-Standard Terminations			
	N	% of Total	ACT*	N	% of Track	% of WST*	ACT*	N	% of Track	% of OST*	ACT*
Track 3	53	31%	23	50	94%	36%	21	3	6%	9%	47
Track 7	120	69%	29	89	74%	64%	21	31	26%	91%	53
Total	173	100%	27	139	80%	100%	21	34	20%	100%	52

\* ACT = Average Case Time, in days; WST = Within-Standard Terminations; OST = Over-Standard Terminations.  
Note: Percentages do not always add to 100% due to rounding.

**Table E.6. FY08 CINA Non-Shelter Case Terminations by Termination Status (Within or Over the 60-month Standard) and Track**

DCM Track	Overall Terminations			Within-Standard Terminations				Over-Standard Terminations			
	N	% of Total	ACT*	N	% of Track	% of WST*	ACT*	N	% of Track	% of OST*	ACT*
Track 4	13	18%	47	12	92%	18%	45	1	8%	14%	69
Track 8	60	82%	43	54	90%	82%	35	6	10%	86%	111
Total	73	100%	43	66	90%	100%	37	7	10%	100%	105

\* ACT = Average Case Time, in days; WST = Within-Standard Terminations; OST = Over-Standard Terminations.  
Note: Percentages do not always add to 100% due to rounding.

### *Case Terminations by Trial Postponements*

Overall, a little over a quarter (26%) of the CINA Shelter cases had trial postponements in FY08 (45/173). Compared to FY07 when 44% of cases had at least one trial postponement, this is a marked improvement (See Table E.8a). Almost three-fourths (73%) of those CINA Shelter cases with trial postponements were over-standard (33/45). For the past two fiscal years, the majority of the FY08 standard Track 3 CINA Shelter cases with trial postponements closed over-standard (60%).<sup>18</sup> For complex Track 7 CINA Shelter cases that had trial postponements, 75% closed over-standard. Given the relatively short case processing time (30 days) in the standards, trial postponements play a role in determining the case processing time for CINA Shelter cases.

Of those CINA Shelter cases with trial postponements, the majority of cases cited only one reason for the postponement (96%). Only 2 cases (4%) cited two reasons for trial postponements (see Table E.8a). In comparison, in FY07, 15 cases (16%) had 2 or 3 trial postponements. The most commonly cited trial postponement reason among CINA Shelter cases in FY08 was “Calendar Conflicts – Party Needs To Get Affairs In Order” (N = 32, cited for all cases; N = 21, cited for over-standard cases), followed distally by “Reports and evaluations not completed/reevaluation ordered” (N = 4, cited for all cases; N = 4, cited for over-standard cases).

The association between postponements and over-standard CINA Non-Shelter terminations was briefly discussed above. In general, the extent to which postponements impact case processing time depends on the number of postponements granted in a case and the length of time afforded for each

<sup>18</sup> It is important to note that there were only 5 standard CINA Shelter track cases in FY08 that had trial postponements.

postponement granted. As shown on Table E.8b, slightly over one third (37%) of the CINA Non-Shelter cases had trial postponements (27 of 73), comparable to the FY07 figure (35%). In FY08, of the 27 cases with trial postponements, all 20 cases that had only 1 postponement (N = 20) were closed within-standard whereas the remaining 7 cases that had 2 postponements resulted in over-standard terminations. In comparison, among FY07 terminations, one in 4 of the cases with 1 trial postponement resulted in over-standard terminations.

Of those cases with trial postponements, the vast majority (92%) were from Track 4 (12/13). Of the 12 Track 4 Non-Shelter cases that were postponed, almost all (92%) managed to close within the time standard. Of the 15 Track 8 Non-Shelter cases that had trial postponements, 9 cases (60%) closed within the time standard. Similar to CINA Shelter cases, the majority of CINA Non-Shelter cases cited only one reason for trial postponements (74%) and only 7 (26%) case cited two reasons (see Table E. 8b). According to Table E.9b, the most frequently cited reason for trial postponements among the Non-Shelter cases was “Calendar Conflicts – Party Needs To Get Affairs In Order” (N = 11, cited for all cases, N = 1, cited for over-standard cases).

As shown in Table E.7a, of the 34 CINA Shelter case that closed over-standard, only a single case was without a trial postponement. Similarly, there were no CINA Non-Shelter cases that closed over-standard without the occurrence of a trial postponement. However, the likelihood of a case closing over-standard is also related to the number of postponements. As indicated above, among CINA Non-Shelter cases with one trial postponement all were closed within-standard whereas those with 2 postponements closed over-standard. Therefore, factors such as the frequency, type, and length of postponements need to be considered to fully understand the impact of postponements on the case processing performance.

**Table E.7a. FY08 CINA Shelter Case Terminations by Trial Postponements, Termination Status (Within or Over the 30-day Standard), and Track**

<u>With Trial Postponements</u>										
DCM Track	Total Terminations	Overall Terminations			Within-Standard Terminations			Over-Standard Terminations		
		N	% of Total Track	ACT*	N	% of Total Track	ACT*	N	% of Total Track	ACT*
Track 3	53	5	9%	37	2	40%	22	3	60%	47
Track 7	120	40	33%	45	10	25%	22	30	75%	53
Total	173	45	26%	44	12	27%	22	33	73%	52
<u>Without Trial Postponements</u>										
DCM Track	Total Terminations	Overall Terminations			Within-Standard Terminations			Over-Standard Terminations		
		N	% of Total Track	ACT*	N	% of Total Track	ACT*	N	% of Total Track	ACT*
Track 3	53	48	91%	21	48	100%	21	0	---	---
Track 7	120	80	67%	21	79	99%	20	1	1%	49
Total	173	128	73%	21	127	99%	21	1	1%	49

\* ACT = Average case time, in days.

In CINA cases, there are a number of factors that may impact case processing time such as the number of children involved, track changes that may occur as a case moves from CINA Shelter to Non-Shelter, and scheduling conflicts. Future analyses should examine how such factors impact case processing performance. Furthermore, efforts need to be undertaken to identify at which points during the processing of a case that it begins to fall outside its defined DCM time standards. In addition, the Circuit Court Time Standards Sub-committee may need to re-evaluate its expectations of 100% compliance for child welfare cases. For instance, in six of the seven over-standard CINA Non-Shelter cases, an

extraordinary cause postponement was granted, which led the Adjudication Hearing to be held and the case to be closed over the identified time standard. Given that extraordinary cause postponements are a realistic part of CINA case processing, it is unlikely that Courts will stop granting such postponements. In order for such postponements not to detrimentally impact case processing performance, the number of such postponements should be limited (ideally, not exceeding one) and the length of the postponement should be determined with an eye towards ensuring compliance with State Law, which dictates the length of time that should be taken between shelter care hearing and adjudication.

**Table E.7b. FY08 CINA Non-Shelter Case Terminations by Trial Postponements, Termination Status (Within or Over the 60-day Standard), and Track**

<u>With Trial Postponements</u>										
DCM Track	Total Terminations	Overall Terminations			Within-Standard Terminations			Over-Standard Terminations		
		N	% of Total Track	ACT*	N	% of Track	ACT*	N	% of Track	ACT*
Track 4	13	12	92%	49	11	92%	47	1	8%	69
Track 8	60	15	25%	75	9	60%	51	6	40%	111
Total	73	27	37%	63	20	74%	49	7	26%	105
<u>Without Trial Postponements</u>										
DCM Track	Total Terminations	Overall Terminations			Within-Standard Terminations			Over-Standard Terminations		
		N	% of Total Track	ACT*	N	% of Track	ACT*	N	% of Track	ACT*
Track 4	13	1	8%	22	1	100%	22	--	--	--
Track 8	60	45	75%	32	45	100%	32	--	--	--
Total	73	46	63%	32	46	100%	32	--	--	--

\* ACT = Average case time, in days.

**Table E.8a. Postponed CINA Shelter Cases by the Number of Trial Postponements and Termination Status, FY07 and FY08**

All Cases					Within-Standard Cases			Over-Standard Cases			% of Over-Standard/All Cases	
Number of Postponements	(FY08)		(FY07)		N	%		N	%		%	
	N	%	N	%		(FY08)	(FY07)		(FY08)	(FY07)	(FY08)	(FY07)
1	43	96%	80	84%	12	100%	92%	31	94%	83%	72%	86%
2	2	4%	12	13%	0	0%	8%	2	6%	13%	100%	92%
3	0	0%	3	3%	0	0%	0%	0	0%	4%	--	100%
Total	45	100%	95	100%	12	100%	100%	33	100%	100%	73%	87%
% Postponed	26%		44%		9%		9%	97%		98%		

Note: Percentages do not always add to 100% due to rounding.

**Table E.8b. Postponed CINA Non-Shelter Cases by the Number of Trial Postponements and Termination Status, FY07 and FY08**

All Cases					Within-Standard Cases			Over-Standard Cases			% of Over-Standard/All Cases	
Number of Postponements	(FY08)		(FY07)		N	%		N	%		%	
	N	%	N	%		(FY08)	(FY07)		(FY08)	(FY07)	(FY08)	(FY07)
1	20	74%	16	94%	20	100%	100%	0	0%	80%	0%	25%
2	7	26%	1	6%	0	0%	0%	7	100%	20%	100%	100%
3	--	--	--	--	--	--	--	--	--	--	--	--
Total	27	100%	17	100%	20	100%	100%	7	100%	100%	100%	26%
% Postponed	37%		35%		30%		29%	100%		83%		

Note: Percentages do not always add to 100% due to rounding.

**Table E.9a. Reasons for Trial Postponements by Termination Status for CINA Shelter Cases, FY08**

Reason for Trial Postponement	All Cases		Over-Standard Cases		% of Over-Standard/All Cases
	N	(%)	N	(%)	
1 Calendar Conflicts - Party Needs to Get Affairs In Order	32	68%	21	60%	66%
2 New Counsel sought or has entered their appearance or not appointed	1	2%	1	3%	100%
3 Defendant/Respondent/Plaintiff Not Transported/Writ Never Requested	1	2%			0%
4 Witness Unavailable-New Witness Identified	2	4%	2	6%	100%
5 Reports and evaluations not completed/reevaluation ordered	4	8.5%	4	11%	100%
6 Illness, Medical Emergency, or Death	3	6%	3	8.57%	100%
8 Discovery/ADR incomplete and/or Discovery Disputes/Additional Time needed to prepare	3	6%	3	8.57%	100%
9 Interpreter or ADA Special Needs Requested	1	2%	1	3%	100%
Total	47	100%	35	100%	74%

Note: Percentages do not always add to 100% due to rounding.

**Table E.9b. Reasons for Trial Postponements by Termination Status for CINA Non-Shelter Cases, FY08**

Reason for Trial Postponement	All Cases		Over-Standard Cases		% of Over-Standard Reasons/All Reasons
	N	(%)	N	(%)	
1 Calendar Conflicts - Party Needs to Get Affairs In Order	11	32%	1	7%	9%
2 Discovery/ADR Incomplete and/or Discovery Disputes/Additional Time Needed to Prepare	2	6%	1	7%	50%
3 Increase/decrease court time/track change/postpone behind another case	9	26%			
4 Judge Disqualified/Recused from Case	5	15%	5	36%	100%
5 New Complaint, Petition, 3rd Party Complaint, or Consolidation Pending/Complaint Not at Issue or Ripe	1	3%	1	7%	100%
6 Reports and Evaluations Not Completed/Re-Evaluation Ordered	6	18%	6	43%	100%
Total	34	100%	14	100%	41%

Note: Percentages do not always add to 100% due to rounding.

### ***Summary of CINA Shelter and CINA Non-Shelter Findings***

- Eighty percent of CINA Shelter cases closed within the 30-day time standard, and 90% of the CINA Non-Shelter cases closed within the 60-day time standard. However, the performance level for CINA cases remains below the state performance goal of 100%.
- Twenty-five percent of the over-standard CINA Shelter cases closed within two weeks over-standard (N = 9) and almost three-fourths closed within a month over-standard (N = 25). Ninety-five percent of CINA Shelter cases closed a little over a month over-standard (N = 33). All except one of the seven over-standard CINA Non-Shelter case closed more than five weeks over the 60-day time standard.
- Unlike previous fiscal years, which witnessed a slight, continual increase in the ACT for over-standard CINA Shelter cases, between FY07 and FY08 that patterned reversed revealing a decrease of 13% in the ACT for these cases. The (slight) decrease in the total ACT for CINA Shelter cases

in FY08 is likely due to the marked increase in the percentage of CINA Shelter cases that closed within-standard, which at 90% is the highest within-standard performance level achieved since FY05.

- The processing performance for CINA Non-Shelter cases has also improved between FY07 and FY08 although not as markedly as for CINA Shelter cases. The overall ACT for CINA Non-Shelter cases witnessed a 15% reduction between FY06 and FY07, which is noticeably greater than the 2% reduction in overall ACT experienced between FY07 and FY08. There was a negligible increase in the number of over-standard CINA Non-Shelter cases between FY07 and FY08; however, there was a 38% increase in the over-standard ACT during this time period and a 64% increase in the over-standard ACT between FY05 and FY08.
- The within-standard percentage for CINA Non-Shelter cases improved slightly between FY07 and FY08 in contrast to the substantial improvement that occurred between FY06 and FY07. The improvements in CINA Non-Shelter cases since FY06 reverse the decline in performance experienced between FY05 and FY06 assailing some concerns that the improvement in performance between FY06 and FY07 was artificial.
- In FY08, complex CINA Shelter and Non-Shelter cases comprised the majority of the over-standard terminations (91% and 86%, respectively).
- Twenty-six percent of CINA Shelter cases had trial postponements, and 73% of them closed over-standard.
- In FY08, thirty-seven percent of CINA Non-Shelter cases had trial postponements. The majority of CINA Non-Shelter cases with trial postponements closed within-standard (74%).

### ***Recommendations for Future CINA Analyses***

- The Montgomery County Circuit Court plans to conduct a more in-depth analysis of its case processing performance by examining how well cases are performing against its DCM time standards. By examining how cases perform against the DCM time standards, the Court can determine at which stage of the case performance begins to falter. Any early indication of performance slippage will serve as a preemptive warning for Court personnel that efforts need to be undertaken to prevent further declines in performance.
- For CINA Non-Shelter cases, the majority of postponed cases closed within-standard. In contrast for CINA Shelter cases, the majority of postponed cases closed over-standard. It may be useful to re-examine the procedures in place to alert court officials of how the granting of postponements will impact the case time standards. It may also be useful to examine the average postponement length and how it impacts performance.
- Examine in more detail the marked improvement in the within-standard percentage for CINA Shelter cases between FY07 and FY08. In addition to the increase in the within-standard percentage for CINA Shelter cases, there was a decrease in the number of total CINA Shelter terminations for FY08. It may be interesting to examine the extent to which fewer cases to process and terminate in the fiscal year led to better case management, and the more efficient use of Court resources. The improvement was also clearly linked to the number of postponements granted; therefore, continued dialog about the impact of postponements on performance is critical.
- Explore the application of standard and complex track in CINA cases. In particular, it would be useful to identify what criteria are being used to assign cases to standard versus complex cases.

### ***CINA Recommendations to the Circuit Court Time Standards Sub-Committee***

- The Time Standards Sub-Committee is requested to review the Child Welfare time standards, and convey to all Circuit Courts how and why the standards differ from federal guidelines related to child welfare cases. Specific attention should be placed on examining how the UCS system and associated UCS reports display the case start date and key target dates in the ‘History’ section of

the system. There appears to be some confusion among (some of the) Permanency Planning Liaisons (PPLs) regarding the reference case start date being used in the UCS system for child welfare cases.

- Per conversations with other Courts, an issue was raised regarding the postponement field in the Caseflow Assessment Application. In particular, it was noted that the postponement field includes the number of any postponement that occurred in the CINA case whether it was granted between case start and stop dates or after the case stop date. While this issue does not directly impact Montgomery County Circuit Court, it does highlight the importance of ensuring that all courts are measuring the number of postponements similarly.
- A question following the FY07 Caseflow Assessment was raised regarding the correct use of the adjudication case stop for CINA cases. According to MD Rule 11-114(b), “An adjudicatory hearing shall be held within sixty days after the juvenile petition is served on the respondent unless a wavier petition is filed, in which case an adjudicatory hearing shall be held within thirty days after the court’s decision to retain jurisdiction at the conclusion of the waiver hearing.” As used in this Rule, “held” does not mean completed, but means that the hearing should be initiated within thirty days and completed with a reasonable degree of continuity; by a reasonable degree of continuity, it is meant that a hearing once begun must continue, insofar as possible, on a day to day basis until completed. In re Vanessa C., 104 Md. App. 452, 656 A.2d 795 (1995).
  - Normally, this is not an issue when the hearing completes within a day; however if we have multiple-day hearings or they get continued, this may become an issue. Montgomery County Circuit Court Juvenile division believes that the CINA case stop date should be the day when the hearing started (not completed) based on the Appellate Court interpretation of the term “held” as noted above.

## Termination of Parental Rights (TPR) Fiscal Year 2008 Case Terminations

### F. TPR Case Processing Definitions and Summary

	TPR Case Time Definitions	Percent Within Standard	Additional Montgomery County Measurements
<b>TPR</b>	<u>Case Time Start:</u> TPR Petition Filed.  <u>Case Time Stop:</u> Ruling on Petition (guardianship judgment/decreed).	<u>State-Set Goal:</u> 100% within 180 days  <u>Montgomery County:</u> FY 2005: 60% FY 2006: 56% FY 2007: 42% FY2008: 61%	<u>Average Case Processing Time:</u> FY 2005: 179 days FY 2006: 169 days FY 2007: 208 days FY2008: 187 days
Note: TPR case processing time is suspended for interlocutory appeal and military leave.			

#### Overall TPR Case Terminations

There were 70 Termination of Parental Rights (TPR) original case closures<sup>19</sup> by Montgomery County Circuit Court in FY08, which is more than double the number of TPR terminations for FY07. Sixty-one percent of the TPR cases (N = 43) closed within-standard, which is 19 percentage points higher than what was achieved in FY07. In addition, the Court's overall average case processing time (ACT) for TPR cases was only slightly above the 180-day standard at 187 days (see Table F.1), which is much improved from the ACT achieved in FY07 (i.e., 208 days).

**Table F.1. Number of TPR Case Terminations FY05 to FY08**

Fiscal Year	Terminations		Within-Standard Terminations (180-day Standard)			Over-Standard Terminations (180-day Standard)		
	N	ACT*	N	% of Total	ACT*	N	% of Total	ACT*
FY05	40	179	24	60%	129	16	40%	255
FY06	18	169	10	56%	127	8	44%	222
FY07	31	208	13	42%	134	18	58%	260
<b>FY08</b>	<b>70</b>	<b>187</b>	<b>43</b>	<b>61%</b>	<b>128</b>	<b>27</b>	<b>39%</b>	<b>282</b>

\* ACT = Average Case Time, in days.

The overall ACT for TPR cases has fluctuated since FY05. Between FY05 and FY06, the overall ACT declined from 179 days to 169 days, then increased between FY06 and FY07 from 169 days to 208 days, and then (once again) declined between FY07 and FY08 from 208 to 187 days. While the improvement in the overall ACT between FY05 and FY06 was largely due to a 50% decrease in the

<sup>19</sup> For the purposes of this report, "closure" in TPR cases represents the court's ruling on petition or its final order as defined by the Maryland Judiciary for the sole purpose of the Maryland Caseflow Assessment.



number of over-standard cases and the shorter ACT for the over-standard cases, the explanation for what occurred between FY07 and FY08 is slightly different. In particular, the ACT for over-standard TPR cases in FY08 increased from FY07 and there was 50% *increase* in the number of over-standard TPR cases. Despite this 50% increase in the number of over-standard TPR cases, the overall ACT improved reducing from 208 days in FY07 to 187 days in FY08. This improvement was primarily due to a marked increase (231%) in the number of TPR cases that closed within-standard and the reduction in the ACT among within-standard cases (from 134 to 128 days). Thus, despite the fact that the number of TPR cases processed more than doubled from 31 in FY07 to 70 in FY08, the Court was able to close most of its increased caseload within-standard resulting in a reduction in the overall ACT by 10%. In addition, there was an improvement in the percentage of cases closing within-standard from 42% in FY07 to 61% in FY08.

Table F.2 displays the trend in the number and performance of TPR cases since FY05. Since FY05, there has been a 75% increase in the number of total TPR cases terminated annually and a slight increase of 4% in the overall ACT. There were similar increases in the number of within- and over-standard TPR cases since FY05 (79% and 69%, respectively). Since FY05, there was a slight decrease (1%) in the ACT for within-standard TPR cases whereas there was an increase (11%) in the ACT for over-standard cases (see Table F.2). FY08 experienced the greatest number of TPR terminations than in any other fiscal year, and as indicated above, despite this increase the Court did not falter in performance (as measured by the within-standard percentage) but rather improved by 19 percentage points from closing 42% of its cases within-standard in FY07 to closing 61% within-standard in FY08. While commendable, the Court recognizes that efforts need to continue so as to meet the state goal of 100% compliance. As will be discussed in more detail below, the Montgomery County Circuit Court implemented several new strategies in an effort to improve its processing of TPR cases. These policies, which were implemented in January 2008, appear (at least anecdotally) to have impacted case processing performance for FY08.

Given the variability in the number of TPR terminations, caution should be used when comparing case performance across fiscal years. As shown in Table F.2, there was a substantial reduction in the number of TPR terminations between FY05 and FY06 by 55% and then pretty dramatic increases between FY06 and FY07 (72%) as well as FY07 and FY08 (125%). Based on the past four years, the Court may want to shoot for an ACT somewhere between the low achieved in FY06 (i.e., 169 days) and the high achieved in FY07 (i.e., 208 days). Ideally, the Court would like its overall ACT to be below the state defined time standard of 180 days; therefore, an ACT between FY05 and FY06 is ideal.

**Table F.2. Number of TPR Case Terminations FY05 to FY08**

	Total Terminations		Change In Within-Standard Terminations (180-day Standard)		Change in Over-Standard Terminations (180-day Standard)	
	N	ACT*	N	ACT	N	ACT
FY05-FY06	-22	-10	-14	-2	-8	-33
Change	(-55%)	(-6%)	(-58%)	(-2%)	(-50%)	(-13%)
FY06-FY07	13	39	3	7	10	38
Change	(72%)	(23%)	(30%)	(6%)	(125%)	(17%)
FY07-FY08	39	-21	30	-6	9	22
Change	(125%)	(-10%)	(231%)	(-4%)	(50%)	(8%)
<b>FY05-FY08</b>	<b>30</b>	<b>8</b>	<b>19</b>	<b>-1</b>	<b>11</b>	<b>27</b>
<b>Change</b>	<b>(75%)</b>	<b>(4%)</b>	<b>(79%)</b>	<b>(-1%)</b>	<b>(69%)</b>	<b>(11%)</b>

\* ACT = Average Case Time, in days.

According to the Family Services Division Coordinator and the Juvenile Supervising Case Managers, there are several possible reasons for the increase in TPR filings in FY08, including:

- An increase in the number of children remaining in foster care for at least 15 months, which is required for the TPR to be filed.
- An increase in the number of children in foster care who have a parent that meets certain statutory criteria (e.g., felony conviction, prior loss of a child by TPR, torture of a child, etc.) resulting in reasonable efforts being waived and the case proceeding to TPR.
- An increase in the presence of large sibling groups that come into foster.

With regard to measuring TPR performance, the current Maryland State Case Processing Standards set the case start time for TPR cases at the filing of the TPR petition and the case stop date as the ruling on the petition, and stipulate that the cases close within 180 days to reflect the legislative intention, the protection of the welfare of children involved in these cases. From a judicial case processing perspective, including the time that a court is largely forced to wait and remain inactive, such as the time between case filing and service, in the calculation of case time seems to confound the accurate calculation of the case processing time. This is particularly true for TPR case where cases often are delayed due to difficulties in locating and serving parents.

The Montgomery County Circuit Court recognizes that minimal changes are likely to be made to the TPR time standards primarily because unlike other case types there are Maryland rules that are (and probably should be) taken into account. However, in an effort to address challenges in achieving compliance with the judiciary's time standards, the Family Division Services Coordinator and the Juvenile Supervising Case Manager have identified and implemented several strategies to improve TPR case processing performance. By drawing on the findings from the Montgomery County FY2007 Caseflow Assessment Report as well as their expertise in how the Court is processing such cases, the following improvement initiatives were instituted mid-way through FY08:

- Service status hearings were implemented. The initial hearing is held at 45 or 60 days and repeats (on a much shorter cycle), until service is perfected. By doing this the court is ensuring that the issue of service compliance remains a priority.
- Scheduling hearings were initially called scheduling conferences and were held in chambers with the judge's law clerk, the County Attorney, the parents' attorney, and the child's attorney. At times pressure was put on the law clerks to select trial dates beyond the time standard guidelines. Now scheduling hearings are scheduled by the Case Managers and held on the record with the judges, which will hopefully reduce the attempts by parties to schedule the trial date too far into the future.
- The Supervising Case Manager is continuing to contact the paralegal at the County Attorney's Office on a weekly basis to monitor service issues.
- TPR mediation status hearings have been implemented, which allows the parties to come directly from mediation and place consents or agreements on the record, rather than requiring them to prepare and file a motion, which must then be processed and ruled upon resulting in additional time taken to process TPR cases.

The court believes that these initiatives, even though implemented mid-way through FY2008, were the primary reasons for the improved performance of FY2008 TPR cases. It is believed that full implementation of these initiatives throughout FY2009 will further improve TPR case processing performance. That said, even with these initiatives fully implemented, it is important that the judges hearing such cases remain cognizant of the 180-day time standard for TPR cases. Judicial support for the case time standards remains a critical element to achieving high performance as it may set an example for

agencies outside the Court who may be tempted to extend case time unnecessarily. The Circuit Court researchers will be conducting an in-depth analysis of Montgomery County Circuit Court's FY08 TPR cases to assess the extent to which these identified and implemented improvement initiatives had the intended result. On a cursory level it appears that improvements have been made in the case processing performance of TPR cases as witnessed by a 19 percentage point improvement in the within-standard percentage between FY07 and FY08. Despite this apparent improvement in performance, it is unclear the extent to which this improvement is the result of the changes implemented. Additional analyses will be able to clarify the link between the improvements observed and the initiatives implemented.

#### *Case Terminations by Trial Postponements*

Tables F.4 through F.6 provide information on TPR trial postponements. Compared to 26% (8/31) in FY07, 41% of (29/70) of TPR cases that terminated during FY08 had one or more trial postponements (See Table F.5). Thus while the number of cases more than doubled between FY07 and FY08, the number of cases with trial postponements more than tripled during the same period. Most of the cases had one postponement (83%) in FY08, which was comparable with FY07 at 88%. In contrast to FY07 where no TPR cases with a single postponement closed over-standard, nearly half (46%) of such cases in FY08 closed over-standard. Interestingly, however, in FY08 all 4 cases with 2 trial postponements still managed to close within-standard. These observations suggest some changes in the way trial postponements were granted in TPR cases in FY08 though a closer examination of these cases is needed.

As shown in Table F.4, over half of the TPR cases with trial postponements closed within-standard (59%, 17/29), which resulted in less than half closing over-standard (41%, 12/29). Similar to FY07, the average case processing time for over-standard TPR cases was larger among cases without postponements compared to those with postponements (327 days versus 226 days, respectively). One possible explanation for the larger case processing time among case without postponements is that service was more of an issue for these cases as opposed to the cases that were postponed. Often times, trial postponements occur once the parties have been served in order for the attorney's to get their affairs in order or to accommodate schedules. Unlike the previous fiscal year, among TPR cases without postponements, there are fewer that closed over-standard (37%) than within-standard (63%).

The most frequently cited reason for postponing a TPR case was "Calendar Conflicts – Party Needs To Get Affairs In Order" (N = 23, times cited as a reason for all cases; N = 9, times cited as a reason for over-standard cases). Given that 59% of the cases with trial postponements closed within standard and that the ACT for over-standard TPR cases without postponements is greater than that for those with postponements, it appears that trial postponements in addition to some other factors such as lengthy service may be impacting whether a case closes over as compared to within the case time standard.

**Table F.4. FY08 TPR Case Terminations by Trial Postponements, Termination Status (Within or Over the 180-day Standard), and Track**

<u>With Trial Postponements</u>										
DCM Track	Total Terminations	Overall Terminations			Within-Standard Terminations			Over-Standard Terminations		
		N	% of Total	ACT*	N	% of Track	ACT*	N	% of Track	ACT*
Track 9	70	29	41%	180	17	59%	148	12	41%	226
Total	70	29	41%	180	17	59%	148	12	41%	226
<u>Without Trial Postponements</u>										
Total Terminations		Overall Terminations			Within-Standard Terminations			Over-Standard Terminations		

DCM Track		N	% of Total Track	ACT*	N	% of Track	ACT*	N	% of Track	ACT*
Track 9	70	41	59%	192	26	63%	114	15	37%	327
Total	70	41	59%	192	26	63%	114	15	37%	327

\* ACT = Average case time, in days.

**Table F.5. Postponed TPR Cases by the Number of Trial Postponements and Termination Status, FY07 and FY08**

All Cases					Within-Standard Cases			Over-Standard Cases			% of Over-Standard/All Cases	
Number of Postponements	(FY08)		(FY07)		N	%		N	%		%	
	N	%	N	%	N	(FY08)	(FY07)	N	(FY08)	(FY07)	(FY08)	(FY07)
1	24	83%	7	88%	13	76%	100%	11	92%	0%	46%	0%
2	4	14%	1	13%	4	24%	0%	0	0%	100%	0%	100%
3	1	3%		0%	0	0%	0%	1	8%	0%	100%	--
Total	29	100%	8	100%	17	100%	100%	12	100%	100%	41%	13%
% Postponed		41%		26%		40%	54%		44%	6%		

Note: Percentages do not always add to 100% due to rounding.

**Table F.6. Reasons for Trial Postponements by Termination Status for TPR Cases, FY07**

Reason for Trial Postponement		All Cases		Over-Standard Cases		% of Over-Standard/All Cases
		N	(%)	N	(%)	
1	Calendar Conflicts - Party Needs to Get Affairs In Order	23	66%	9	64%	39%
2	Parent Not Present	3	9%	1	7%	33%
3	Reports and Evaluations Not Completed/Re-Evaluation Ordered	4	11%	2	14%	50%
4	New Counsel Sought or Has Entered their Appearance or Not Appointed	1	3%	1	7%	100%
5	Discovery Disputes/Additional Time Needed to Prepare	1	3%			
6	Increase/Decrease Court Time/Track Change/to Trail Behind another case	2	6%	1	7%	
7	Witness Unavailable-New Witness Identified	1	3%			
Total		35	100%	14	100%	40%

Note: Percentages do not always add to 100% due to rounding.

### **Summary of TPR Findings**

- There were 70 Termination of Parental Rights (TPR) original case closures by Montgomery County Circuit Court in FY08, which was more than double the number of TPR terminations for FY07.
- In FY08, 61% of TPR cases closed within-standard, which was a 19 percentage point improvement over the number of within-standard terminations achieved for FY07. The Circuit Court has yet to meet the State defined goal of closing 100% of TPR cases within-standard; however, efforts have and are continuing to be undertaken to achieve the defined goal.
- Forty-one percent of TPR cases had one or more postponements (29/70) in FY08. Of the TPR cases with postponements, almost an equal percentage closed within- and over-standard.
- It appears that trial postponements, in addition to other factors, are the reasons for cases closing over as compared to within the case time standard. For instance, the ACT for cases without trial postponements is greater than for cases with trial postponements.

### ***Recommended for Future TPR Analyses***

- Examine the length of time between the TPR petition being filed and the service of parties. The goal for this analysis is primarily to identify whether improvements have been made in the length of time taken to serve parties since the implementation of initiatives to enhance TPR case processing performance.
- Changes have been made in the scheduling practices of TPR cases. Particularly, an effort has been made to schedule and hold all court-related conferences soon after the order to serve the identified party via publication has been signed. It is anticipated that by scheduling such conferences earlier (prior to the conclusion of the objection period) the court will be able to ultimately improve case processing performance. Subsequent analyses will be performed by the Montgomery County Circuit Court Researchers to assess the extent to which the time between the signing of the final order and the scheduling conference has been shortened, and the impact that had on case processing time.
- Examine the number of TPR cases with siblings terminated in FY08 as compared to the number of such cases in previous fiscal years. Assess the extent to which such cases impact the overall performance of TPR cases not only in workload but also in processing time.
- Examine the number of cases with trials held in FY08 as compared to previous fiscal years. Assess the extent to which disposition type impacts performance.

### ***Recommendations to the Circuit Court Time Standards Sub-Committee***

- Currently, the time standards do not explicitly address TPR cases that were dismissed or those where the petition was withdrawn. The subcommittee is requested to develop guidelines as to how to determine the case stop date for these TPR cases.
- The Circuit Court requests that the TPR case start date align with the date that the last party is served rather than the filing of the TPR petition.
- In conversations with other jurisdictions, it became clear that certain Circuit Courts are not using the correct case stop date code (i.e., the TFOG) to reflect a final order of guardianship. As such, certain Courts have an incorrect number of TPR cases captured in the Assessment Application. It is recommended that the Time Standards Sub-Committee coordinate with JIS programmers to ensure that all pertinent court personnel have clarity as to what docket entry correctly closes TPR cases.
- Per conversations with other Courts, an issue was raised regarding the postponement field in the Caseflow Assessment Application. In particular, it was noted that the TPR postponement field includes the number of CINA postponements that occurred in the TPR case (i.e., when the TPR cases was a CINA case). Also, it has been noted that the number of postponements reflect postponements that occur at any time during the life of the case (e.g., even after the case stop date). While this issue does not directly impact Montgomery County Circuit Court, it does highlight the importance of ensuring that all courts are measuring the number of postponements similarly.
- The Time Standards Sub-Committee is requested to review the Child Welfare time standards, and convey to all Circuit Courts how and why the standards differ from federal statutes related to child welfare cases. Specific attention should be placed on examining how the UCS system and associated UCS reports display the case start date and key target dates in the "History" section of the system. There appears to be some confusion among (some of the) Permanency Planning Liaisons (PPLs) regarding the reference case start date being used in the UCS system for child welfare cases.

## **Appendix I. The Impact of Suggested Time Standard Modifications on Case Processing Performance**

For FY08, Montgomery County Circuit Court conducted a supplemental analysis comparing the performance of its (sampled) FY08 terminated cases against two different approaches: 1) strictly following the time standards as prescribed by the Maryland Judicial Council, and 2) following the time standards as interpreted by the Montgomery County Circuit Court. As noted in the overview of this report, the main analyses of the FY08 Montgomery County Circuit Court report adheres to the State Time Standards as directed by the Judicial Council. However, Montgomery County Circuit Court questions certain aspects of the current application of the time standards; and therefore, requested that the Circuit Court Researchers examine performance from the Montgomery County Circuit Court's perspective.

The Circuit Court prefers a more realistic interpretation of the suspension events defined in the time standards in terms of their start and stop dates. First, the Circuit Court maintains that suspension time should be excluded from the calculation of clock time even when the defined suspension stop date is unavailable. This recommendation is specific to those instances where the suspension prevents the court from proceeding with the case because, for example, the case is outside the court's jurisdiction. Specifically, the Court believes that the suspension stop for bankruptcy should not be restricted to the receipt of the lift (or discharge) from the U.S. Bankruptcy Court. The suspension time should be excluded from the calculation of case processing time when, for example, the case was dismissed due to the Maryland Rule 2-507. Whether or not the Circuit Court received the lift, the Court was not involved in the case as was clear from the activation of MD Rule 2-507. If the Court subsequently became involved in the case following the bankruptcy stay, there would have been some type of court-related event to reactivate the clock. Second, the Circuit Court maintains that the suspensions that take place before the case start date should be counted as valid, and the time between the case start date and the suspension end date should be excluded from the calculation of case processing time. For example, in criminal cases the time between case start date and warrant served should be taken out from the case time when the bench warrant is issued prior to the case start date and service occurs sometime between case start and stop date. Below a comparison is made between case processing performance when measured by Montgomery County Circuit Court's modified application of the time standards and by the application put forth by the Judicial Council

Table A.8 displays overall case processing performance for criminal, civil and juvenile cases when using the original state time standards ('Maryland') and the alternative Montgomery County Circuit Court approach ('Montgomery'). Note that the Maryland data matches the data displayed in Tables A.1, B.1, and D.1. These modifications to the Time Standards do not affect the case processing performance of domestic relations, CINA Shelter/Non-Shelter, and TPR cases.

The first section of Table A.8 presents the overall case time under the two applications of the time standards, as well as the differences in case time as a result of those approaches. It was expected that the case time would be shorter under the Montgomery County Circuit Court approach. The greatest difference in case processing performance is among civil cases (18 days) whereas the smallest difference is among criminal cases, which is less than a day. Also expected was the increase in the number of the within-standard cases, which ranges from 2 in criminal cases to 8 in juvenile cases, resulting also in an increased percentage of within-standard terminations. The improvement in the percentage of over-standard cases ranged from 0.4 percentage points in criminal to 1.6 percentage points in juvenile cases.

**Table A.8. Case Processing Performance by Case Type: Comparing Judicial Council vs. Montgomery County Circuit Court Applications of the State Time Standards**

Case Type	Total Terminations		Within-Standard Terminations			Over-Standard Terminations		
	N	ACT*	N	%	ACT	N	%	ACT
<b>Criminal</b>								
Maryland	505	94.6	435	86.1%	68.8	70	13.9%	254.4
Montgomery	505	93.8	437	86.5%	69.1	68	13.5%	252.4
Difference		-0.8	2	0.4%	0.2	-2	-0.4%	-2.0
<b>Civil</b>								
Maryland	509	212.7	485	95.3%	176.2	24	4.7%	951.6
Montgomery	509	195.5	491	96.5%	174.0	18	3.5%	783.2
Difference		-17.2	6	1.2%	-2.2	-6	-1.2%	-168.4
<b>Juvenile</b>								
Maryland	510	46.1	484	94.9%	41.8	26	5.1%	126.5
Montgomery	510	44.1	492	96.5%	41.0	18	3.5%	129.0
Difference		-2.0	8	1.6%	-0.8	-8	-1.6%	2.5

The most significant impact of Montgomery County Circuit Court's application of the time standards occurred in the ACT of over-standard cases particularly civil cases. While the overall civil ACT reveals an improvement of 18 days, a reduction of 9% in case processing time, among over-standard civil cases, the reduction in time is 169 days less, or 17%. Montgomery County Circuit Court's modification to the treatment of suspension events defined by the time standards would have a marked impact on the performance of over-standard cases. The improvement in the over-standard ACT is mostly the result of the reduction in the ACT of one case from 4,158 days to 40 days where the Court was able to exclude the suspension time associated with a bankruptcy that was closed via MD Rule 2-507 rather than the discharge from the U.S. Bankruptcy Court. Though the improvement in the within-standard percentage was small, if the time standards were implemented as requested by Montgomery County Circuit Court, the within-standard percentage of 96% would have been the highest performance level achieved in civil cases since FY04.

As observed, Montgomery County Circuit Court's alternative application of the time standards did not result in dramatic improvements in case processing time. This underscores the very point that Montgomery County Circuit Court has been trying to make as to why it believes that such modifications are needed to the application of the case time standards. That is, these changes are not meant to artificially inflate courts' case processing performance, but to make what is measured in the assessment more relevant and aligned with their case management practices. These and other Court's case-type specific recommendations are provided at the end of each of respective section and are requested to be reviewed and discussed by the Circuit Court Time Standards Sub-Committee.